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LEGISLATIVE JOURNAL
OF THE
STATE OF NEBRASKA

Volume 1

NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION

2001

Convened October 25, 2001

Adjourned November 8, 2001

LINCOLN, NEBRASKA

Compiled

Under the Authority of the Legislature

by

PATRICK J. O'DONNELL, CLERK



OFFICERS OF THE LEGISLATURE

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LEGISLATURE

MEMBERS

Dist.	Name	Address	Occupation	Counties
1	Floyd Vrtiska.....	Table Rock.....	Semi-retired Farmer.....	Cass*, Johnson, Nemaha, Otoe*, Pawnee, Richardson
2	Roger R. Wehrbein	Plattsmouth	Farmer/Feeder.....	Cass*, Otoe*, Sarpy*
3	Jon Bruning.....	Sarpy County	Attorney.....	Sarpy*
4	Kermit A. Brashear	Omaha.....	Attorney.....	Douglas*
5	Donald Preister.....	Omaha.....	Joy Creations Greeting Card..... Manufacturer	Douglas*, Sarpy*
6	Pam Brown.....	Omaha.....	Consultant.....	Douglas*
7	John Hilgert.....	Omaha.....	Senior Director of Government	Douglas*
			Relations - Catholic Charities	
8	Patrick Bourne	Omaha.....	Attorney.....	Douglas*
9	Chip Maxwell.....	Omaha.....	Development Director - Jesuit	Douglas*
			Middle School of Omaha	
10	Deborah S. Suttle	Omaha.....		Douglas*
11	Ernie Chambers.....	Omaha.....	Defender of the Downtrodden	Douglas*
12	Pamela Redfield.....	Omaha.....		Douglas*
13	Lowen Kruse	Omaha.....	Ordained Minister.....	Douglas*
14	Nancy Thompson	Papillion.....	State Senator.....	Sarpy*
15	Ray Janssen.....	Nickerson.....	Grocer.....	Dodge
16	Matt Connealy.....	Decatur.....	Farmer	Burt, Cuming, Stanton, Thurston, Washington*
17	Pat Engel.....	South Sioux City		Dakota, Dixon, Wayne

Dist.	Name	Address	Occupation	Counties
18	Douglas Cunningham	Wausa	Grocer	Douglas*, Washington*
19	Gene Tyson	Norfolk		Madison
20	Jim Jensen	Omaha	Contractor	Douglas*
21	Carol Hudkins	Malcolm	Farmer	Lancaster*, Saunders*
22	Jennie Robak	Columbus	Owner-Operator - RKR Foods Inc.	Colfax*, Platte
23	Curt Bromm	Wahoo	Attorney	Butler, Colfax*, Douglas*, Sarpy*, Saunders*
24	Elaine Stuhr	Bradshaw	Farmer	Polk*, Seward, York
25	Ron Raikes	Lincoln	Farmer	Lancaster*
26	Marian L. Price	Lincoln	Senator	Lancaster*
27	DiAnna Schimek	Lincoln		Lancaster*
28	Chris Beutler	Lincoln	Lawyer and Businessman	Lancaster*
29	Mike Foley	Lincoln	Corporate Planning Analyst	Lancaster*
30	Dennis Byars	Beatrice	Director of Advocacy and Government Relations - Martin Luther Home Society, Inc.	Gage, Lancaster*
31	Mark Quandahl	Omaha	Lawyer	Douglas*
32	George Coordsen	Hebron	Farmer	Fillmore, Jefferson, Saline, Thayer
33	Carrroll Burling	Kenesaw	Farmer/Rancher	Adams, Hall*
34	Bob Kremer	Aurora	Farmer/Cattle Feeder	Hall*, Hamilton, Merrick, Nance, Polk*
35	Ray Aguilar	Grand Island	Self-employed - Commercial Cleaning Service	Hall*
36	Jim D. Cudaback	Riverdale	Rental Property Owner	Buffalo*, Dawson*
37	Doug Kristensen	Minden	Attorney	Buffalo*, Kearney

Dist.	Name	Address	Occupation	Counties
38	Ed Schrock	Elm Creek	Farmer	Clay, Franklin, Gosper, Harlan, Nuckolls, Phelps, Webster
39	Dwite Pedersen	Elkhorn	Substance Abuse Counselor	Douglas*, Sarpy*, Washington*
40	Merton L. Dierks	Ewing	Rancher/Veterinarian	Cedar, Holt*, Knox, Pierce
41	Vickie D. McDonald	Rockville	Investment Banker	Antelope, Boone, Garfield, Greeley, Hall*, Howard, Sherman, Valley, Wheeler
42	Don Pederson	North Platte	Attorney	Lincoln
43	Jim Jones	Eddyville	Rancher	Blaine, Boyd, Brown, Cherry*, Custer, Holt*, Hooker, Keya Paha, Logan, Loup, McPherson, Rock, Thomas
44	Tom Baker	Trenton	Farmer - C Store Owner	Chase, Dawson*, Dundy, Frontier, Furnas, Hayes, Hitchcock, Perkins, Red Willow
45	D. Paul Hartnett	Bellevue	Consultant	Sarpy*
46	David Landis	Lincoln	College Instructor	Lancaster*
47	Philip Erdman	Bayard	Farmer	Arthur, Banner, Cheyenne, Deuel, Garden, Keith, Kimball, Morrill
48	Adrian Smith	Gering	Realtor	Scotts Bluff*
49	Wm. R. "Bob" Wickersham	Harrison	Attorney	Box Butte, Cherry*, Dawes, Grant, Scotts Bluff*, Sheridan, Sioux

Clerk

Patrick J. O'Donnell Lincoln

RULES OF THE LEGISLATURE

Rules in effect at the commencement of the Ninety-Seventh Legislature, First Special Session, 2001, are the same rules in effect at the commencement of the Ninety-Seventh Legislature, Second Session, 2002.

FIRST DAY - OCTOBER 25, 2001

LEGISLATIVE JOURNAL

NINETY-SEVENTH LEGISLATURE

FIRST SPECIAL SESSION

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, October 25, 2001

PRAYER

The prayer was offered by Senator Wehrbein.

ROLL CALL

Pursuant to a proclamation by the Honorable Governor of the State of Nebraska, Mike Johanns, the Ninety-Seventh Legislature, First Special Session of the Legislature of Nebraska, assembled in the George W. Norris Legislative Chamber of the State Capitol, at the hour of 3:00 p.m., Thursday, October 25, 2001, and was called to order by President Heineman.

The roll was called and the following members were present:

Aguilar, Raymond	Erdman, Philip	Preister, Don
Baker, Thomas C.	Foley, Mike	Price, Marian L.
Beutler, Chris	Hartnett, D. Paul	Quandahl, Mark
Bourne, Patrick J.	Hilgert, John	Raikes, Ronald E.
Brashear, Kermit	Hudkins, Carol L.	Redfield, Pam
Bromm, Curt	Janssen, Ray	Robak, Jennie
Brown, Pam	Jensen, Jim	Schimek, DiAnna R.
Bruning, Jon	Jones, James E.	Schrock, Ed
Burling, Carroll	Kremer, Bob	Smith, Adrian
Chambers, Ernie	Kristensen, Doug	Stuhr, Elaine
Connealy, Matt	Kruse, Lowen	Suttle, Deborah S.
Coordsen, George	Landis, David M.	Thompson, Nancy
Cudaback, Jim D.	Maxwell, Chip	Tyson, Gene
Cunningham, Douglas D.	McDonald, Vickie D.	Vrtiska, Floyd P.
Dierks, Merton L.	Pedersen, Dwite	Wehrbein, Roger R.
Engel, L. Patrick	Pederson, Don	Wickersham, Bob

The following member was excused:

Byars, Dennis M.

DECLARATION

Pursuant to a proclamation issued by the Honorable Mike Johanns, Governor of Nebraska, we are here and now assembled in the Ninety-Seventh Legislature, First Special Session of the Nebraska Legislature. I, as President of the Legislature, declare that we are now open for the transaction of business.

(Signed) David Heineman
President of the Legislature

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Constitution of the State of Nebraska, I, Mike Johanns, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on October 25, 2001, at 3 p.m. for the purpose of considering and enacting legislation on only the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 97th Legislature;
2. To lapse cash funds to the State General Fund;
3. To eliminate or reduce certain transfers from the State General Fund;
4. To increase or make certain transfers to the State General Fund;
5. To appropriate funds for the necessary expenses of the extraordinary session herein called;
6. To adopt statutory modifications to change the designation of certain portions of the Documentary Stamp Tax from the Affordable Housing Trust Fund to the State General Fund;
7. To adopt statutory modifications to expand the use of the Probation Cash Fund;
8. To adopt statutory modifications to eliminate a transfer from Fund 2262 - Nebraska Nursing Facility Conversion Cash Fund, and to authorize the State Treasurer to transfer the unobligated balance in Fund 2262 - Nebraska Nursing Facility Conversion Cash Fund to Fund 2260 - Department of Health and Human Services - Finance & Support Cash Fund;
9. To increase certain cash fund, revolving fund, and federal fund appropriations;
10. To modify intent language and earmarks accompanying appropriations approved by the 97th Legislature;
11. To adopt statutory modifications to eliminate a requirement that reorganization incentive payments be paid to school districts or systems that are the result of a consolidation or unification with an effective date after August 1, 2001;
12. To adopt statutory modifications to authorize the State Treasurer to transfer the balance of Fund 2133 - Attracting Excellence to Teaching

- Program Cash Fund to Fund 1000 - General Fund and to adopt statutory modifications to annually transfer \$2,700,000 from Fund 2149 - Education Innovation Fund to Fund 2133 - Attracting Excellence to Teaching Program Cash Fund;
13. To postpone the operative date for LB 433 of the 2001 Legislative Session from the tax year beginning January 1, 2001, to the tax year beginning January 1, 2003; and,
 14. To adopt statutory modifications to authorize the State Treasurer to transfer \$5,846,593 from Fund 6264 - Nebraska Medicaid Intergovernmental Trust Fund to Fund 2130 - State Department of Education Cash Fund.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by presenting to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Great Seal of the State of Nebraska to be affixed this 23rd day of October in the year of the Lord Two Thousand One.

(Signed) Mike Johanns
Governor

Attest:

(Signed) John Gale
Secretary of State

MESSAGE FROM THE GOVERNOR

August 10, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear President, Speaker Kristensen and Members:

On this date, I hereby appoint Vickie D. McDonald to fill the vacancy in the 41st Legislative District created by the death of Rick McDonald. This appointment will take effect immediately.

Sincerely,
(Signed) Mike Johanns
Governor

say/

GUBERNATORIAL APPOINTMENT

Greetings To All Who Shall See These Presents Know Ye, that I, Mike

Johanns, on behalf of the State of Nebraska and as Governor, do hereby appoint Vickie D. McDonald as Senator for Legislative District #41.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on August 10, 2001, and continue until January 8, 2003, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Mike Johanns
Governor

(Signed) John A. Gale
Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

September 19, 2001

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

I hand you herewith the official appointment and oath of Vickie D. McDonald, as a Member of the Legislature from the Forty-first Legislative District for the unexpired term of Richard N. McDonald, expired.

Sincerely,
(Signed) John A. Gale
Secretary of State

Enclosures

CERTIFICATE

State of Nebraska

United States of America,)
) ss.
State of Nebraska)

Department of State

I, John A. Gale, Secretary of State of the State of Nebraska do hereby certify that Vickie D. McDonald has been appointed as a Member of the Nebraska Unicameral Legislature from the Forty-first District for the unexpired term of Richard N. McDonald. The term beginning August 10, 2001, shall continue until January 8, 2003, or such time as she shall satisfactorily

Dear Governor Mike Johanns:

This letter is to serve as formal notification that I will be resigning my post as Lieutenant Governor of the State of Nebraska effective October 1, 2001 at 10 a.m.

I consider it an honor and a privilege to have served the citizens of the Great State of Nebraska.

Sincerely,
(Signed) David I. Maurstad
Lieutenant Governor

kmg

RESIGNATION

October 1, 2001

The Honorable Mike Johanns
Governor
State of Nebraska
State Capitol
Lincoln, Nebraska 68509

Dear Governor Johanns:

I hereby resign as State Treasurer of the State of Nebraska. This resignation is effective upon your receipt of this letter. Thank you.

Sincerely,
(Signed) David Heineman
State Treasurer

MESSAGE FROM THE GOVERNOR

October 1, 2001

Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Speaker Kristensen and Senators:

Please be advised that the following individuals have been appointed Lieutenant Governor and State Treasurer.

APPOINTEES:

David E. Heineman, Lieutenant Governor, 2427 E. 10th St, Fremont NE

68025

Lorelee H. Byrd, State Treasurer, 8237 County Rd 13, Arlington NE 68002

Sincerely,
(Signed) Mike Johanns
Governor

say/

GUBERNATORIAL APPOINTMENT

Greetings To All Who Shall See These Presents Know Ye, that I, Mike Johanns, on behalf of the State of Nebraska and as Governor, do hereby appoint David E. Heineman as Lieutenant Governor.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on October 1, 2001, and continue until January 8, 2003, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Mike Johanns
Governor
(Signed) John A. Gale
Secretary of State

GUBERNATORIAL APPOINTMENT

Greetings To All Who Shall See These Presents Know Ye, that I, Mike Johanns, on behalf of the State of Nebraska and as Governor, do hereby appoint Lorelee H. Byrd as State Treasurer.

Reposing special trust in your ability, integrity and patriotism, I do authorize and empower you to discharge the duties of said appointment, according to law.

This appointment shall take effect on October 1, 2001, and continue until January 8, 2003, provided you shall satisfactorily perform all the duties imposed by law.

(Signed) Mike Johanns
Governor
(Signed) John A. Gale
Secretary of State

13	Lowen Kruse	November 7, 2000
14	Nancy Thompson	November 3, 1998
15	Ray Janssen	November 7, 2000
16	Matt Connealy	November 3, 1998
17	L. Patrick Engel	November 7, 2000
18	Douglas D. Cunningham	November 7, 2000
19	Gene Tyson	November 7, 2000
20	Jim Jensen	November 3, 1998
21	Carol L. Hudkins	November 7, 2000
22	Jennie Robak	November 3, 1998
23	Curt Bromm	November 7, 2000
24	Elaine Stuhr	November 3, 1998
25	Ronald E. Raikes	November 7, 2000
26	Marian L. Price	November 3, 1998
27	DiAnna R. Schimek	November 7, 2000
28	Chris Beutler	November 3, 1998
29	Mike Foley	November 7, 2000
30	Dennis M. Byars	November 3, 1998
31	Mark Quandahl	November 7, 2000
32	George Coordsen	November 3, 1998
33	Carroll Burling	November 7, 2000
34	Bob Kremer	November 3, 1998
35	Raymond Aguilar	November 7, 2000
36	Jim D. Cudaback	November 3, 1998
37	Doug Kristensen	November 7, 2000
38	Ed Schrock	November 3, 1998
39	Dwite Pedersen	November 7, 2000
40	Merton L. Dierks	November 3, 1998
41	Vickie D. McDonald	Appointed August 10, 2001
42	Don Pederson	November 3, 1998
43	James E. Jones	November 7, 2000
44	Thomas C. Baker	November 3, 1998
45	D. Paul Hartnett	November 7, 2000
46	David M. Landis	November 3, 1998
47	Philip Erdman	November 7, 2000
48	Adrian Smith	November 3, 1998
49	Bob Wickersham	November 7, 2000

MOTION - Election of Officers

Senator Coordsen moved that the following officers, recommended by the Executive Board, be elected to serve for the Ninety-Seventh Legislature, First Special Session:

Clerk of the Legislature
 Assistant Clerk of the Legislature
 Sergeant at Arms

Patrick J. O'Donnell
 Richard K. Brown
 Lynne Haas

The motion prevailed.

MESSAGES FROM THE GOVERNOR

April 27, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed to the Nebraska Investment Council:

APPOINTEE:
W. Don Nelson, 2430 S. Canterbury Lane, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

June 18, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed as a member of the Nebraska Liquor Commission:

APPOINTEE:
Richard Coyne, 1425 N. 143 Ave, Omaha NE 68154

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

vfp/
Attachment

July 6, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed as a member of the Rural Health Advisory Commission:

APPOINTEE:

Donald N. Taylor, D.D.S., 1335 Sheridan Ave, Alliance NE 69301

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

vfp/
Attachment

July 6, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed as a member of the Health and Human Services System Partnership Council:

APPOINTEE:

Linda J. Heiden, 74384 438 Road, Bertrand NE 68927

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

vfp/
Attachment

July 6, 2001

President, Speaker Kristensen
and Members of the Legislature

State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed as a member of the Environmental Quality Council:

APPOINTEE:

Michael Bair, 305 18th St, Aurora NE 68818

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

vfp/
Attachment

August 27, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been appointed as members of the Rural Health Advisory Commission:

APPOINTEES:

*Todd Stuckey M.D., York Medical Clinic, 2112 Lincoln, York NE 68467

Mary Ridder, Rt 1 Box 95, Calloway NE 68825

*Larry Eichelberger, 1346 H St, Geneva NE 68361

Pam List, 330 Lambrecht, Beemer NE 68716

David Isom, M.D., Lincoln Family Practice, 4600 Valley Rd, Lincoln NE
68506

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/
*Reappointments

October 4, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Senators:

Contingent upon your approval, the following individual has been appointed as a member to the Board of Educational Lands and Funds:

APPOINTEE:

Richard L. Powell, 820 Manchester Circle, Lincoln NE 68528

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

October 4, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been reappointed as a member of the State Board of Parole:

APPOINTEE:

Esther Casmer, 11525 39th St, Bellevue NE 68123

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

Attachment

October 9, 2001

President, Speaker Kristensen
and Members of the Legislature

State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been appointed as members of the State Emergency Response Commission:

APPOINTEES:

- Dana Miller, 1818 Avenue 8, Scottsbluff NE 69361
- *Lon Fields, 1900 Woodland Rd, Aurora NE 68818
- *Mark Reimers, 11904 N. 160th St, Bennington NE 68007
- *Allen Grell, 1907 Washington St, Beatrice NE 68310

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/
*Reappointments

October 9, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been appointed as members of the State Highway Commission:

APPOINTEES:

- *Jerome Fagerland, PO Box 97, Atkinson NE 68713
- Richard S. Reiser, 541 S. 53rd St, Omaha NE 68106
- *Ronald W. Books, 219 N. Maloney Dr, North Platte NE 69101

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/
*Reappointments

October 9, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individual has been appointed as a member of the Commission for the Deaf and Hard of Hearing:

APPOINTEE:

Barbara J. Woodhead, 1028 Twin Ridge Rd, Lincoln NE 68510

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

October 10, 2001

President, Speaker Kristensen
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Kristensen and Members:

Contingent upon your approval, the following individuals have been reappointed as members of the Nebraska Arts Council:

APPOINTEES:

Kam-Ching Leung, 1953 B St, Lincoln NE 68502
Cinda Orr, 1708 W. 35th St, Kearney NE 68847
Sharee Newman, 112 S. 92nd St, Omaha NE 68114
Sharon Marvin, 1330 S. 79th St, Omaha NE 68124
Donna Woods, 128 N. 13th St #1007, Lincoln NE 68508

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

say/

MESSAGE FROM THE SECRETARY OF STATE

July 30, 2001

Mr. President, Mr. Speaker and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment on July 30, 2001, requiring legislative confirmation:

APPOINTEE:

John Bergmeyer, Lincoln NE 68501-2028, to the Nebraska Accountability and Disclosure Commission for a full six year term, expiring on June 30, 2007.

This appointment was made by me pursuant to the provisions of Sections 49-14,105, 49-14,110, 49-14,112 and 49-14,114 and is respectfully submitted for your consideration.

Very truly yours,
(Signed) John A. Gale
Secretary of State

sh

ATTORNEY GENERAL'S OPINIONS

Opinion #01023

DATE: June 25, 2001

SUBJECT: Printing Of Slip Laws; Effect Of Certain Line-item Vetoes By The Governor On Earmarking Appropriation Items.

REQUESTED BY: Joanne Pepperl
Revisor of Statutes

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 543 from the 2001 legislative session is a general appropriations bill which makes appropriations for the expenses of Nebraska government for the biennium ending June 30, 2003. That bill was passed by the Legislature and submitted to Governor Johanns for his approval on May 9, 2001.

Subsequently, the Governor made a number of line-item vetoes in various portions of the bill. The focus of your opinion request is line-item vetoes made in Section 44 of LB 543, dealing with the State Department of Education.

As is the current practice with large appropriation bills, Section 44 of LB 543 starts with the following general appropriation language:

Sec. 44 AGENCY NO. 13 - STATE DEPARTMENT OF EDUCATION

Program No. 25 - Education, Administration, and Support

	FY2001-02	FY2002-03
GENERAL FUND	811,437,932	840,150,645
CASH FUND	8,078,968	8,088,244
FEDERAL FUND est.	169,725,203	171,488,298
REVOLVING FUND	515,805	531,508
PROGRAM TOTAL	989,757,908	1,020,258,695
SALARY LIMIT	8,825,407	9,257,690

After the general appropriation language, Section 44 contains a number of individual "earmarking" provisions which designate specified sums of money for particular purposes. Some of those earmarking provisions provide that the funds included therein shall only be used for certain purposes; some do not. Some of the earmarking provisions also appropriate monies to specific named Funds and Programs. Examples of the earmarking provisions at issue in your opinion request include the following language:

There is included in the amount shown for this program \$3,397,721 General Funds provided as state aid for FY2001-02 and \$3,482,664 General Funds provided as state aid for FY 2002-03 for programs for learners with high ability.

and

There is included in the amount shown for this program \$55,000 General Funds provided as state aid for FY2001-02 and \$55,000 General Funds provided as state aid for FY2002-03 for economic education programs.

Pursuant to art. IV, § 15 of the Nebraska Constitution,¹ the Governor

¹That constitutional provision provides, as is pertinent:

Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor. If he approves he shall sign it, and thereupon it shall become a law, but if he does not approve or reduces any item or items

used his line-item veto to reduce and veto a number of the provisions in Section 44 of LB 543. With respect to the general appropriation language at the beginning of the section, he crossed out the total sums under the GENERAL FUND and PROGRAM TOTAL entries, and inserted the following reduced amounts:

	FY2001-02	FY2002-03
GENERAL FUND	811,218,432	839,912,645
PROGRAM TOTAL	989,538,408	1,020,020,695

With respect to the "earmarking" sections, he simply crossed out and initialed a number of the earmarking amounts without inserting either reduced figures or a zero. However, the total of the "earmarked" sums which were vetoed exceeded the amount of the reductions which the Governor made in the GENERAL FUND and PROGRAM TOTAL entries. When the Governor returned the bill to the Legislature with his objections, he made the following comments with respect to Section 44:

The General Fund appropriation to the Department of Education's Administrative and Support Program had been increased to provide funding for a variety of educational leadership, policy setting, technical assistance, and administrative activities. I am reducing the amount for several items added above my recommendations by one-half and encourage the Commissioner of Education and the State Board of Education to direct the remaining amounts in a manner that satisfies the needs or enhances the performance of our current education programs. I have vetoed specific earmarking amounts related to these items to allow this discretion for the Commissioner of Education. I have not reduced the additional appropriations of 2.7 million dollars for each year of the biennium that we have included for the Attracting Excellence to Teaching program.

Legislative Journal, 97th Neb. Leg., 1st Sess. 2008 (May 14, 2001) (Message from the Governor regarding the return of LB 543). The Governor's veto message to the Legislature regarding LB 543 also included a chart which indicated that the vetoed amount for Section 44 was the amount of the

of appropriations, he shall return it with his objections to the Legislature, which shall enter the objections at large upon its journal, and proceed to reconsider the bill with the objections as a whole, or proceed to reconsider individually the item or items disapproved or reduced. . . . The Governor may disapprove or reduce any item or items of appropriation contained in bills passed by the Legislature, and the item or items so disapproved shall be stricken therefrom, and the items reduced shall remain as reduced unless the Legislature has reconsidered the item or items disapproved or reduced and has repassed any such item or items over the objection of the Governor by a three-fifths approval of the members elected.

reduction in the general appropriation language at the beginning of the section. *Id.* at 2012. We understand that the Governor's changes to LB 543 were not overridden by the Legislature.

As Revisor of Statutes, you are responsible for preparing the slip laws of legislative bills which show the version of those bills passed by the Nebraska Legislature. The slip laws are also included in the bound session laws for each legislative session. In your opinion request letter, you state that it has been your prior practice, with respect to line-item vetoes by the Governor, to print the figures in an appropriations bill as changed by the Governor unless the line-item vetoes were overridden by the Legislature. If the vetoes were overridden, you print the original figure, the subject of the successful override, in the corresponding slip law. However, you also state that you are unsure as to how to reflect the changes made by the Governor in LB 543 in the slip law for that bill because:

It is unclear whether the removal of the earmarked amounts is within the Governor's authority to veto an item of appropriation. If the earmarked amount is removed from the slip law, the language could be read as allowing a higher dollar amount for the particular item contrary to legislative intent.

As a result, you requested our opinion "as to how these changes made by the Governor [in LB 543] should be shown in the slip law."

ANALYSIS

Our research has disclosed no Nebraska cases which take up the precise issues raised in your opinion request, and indeed, there is very little Nebraska case law which deals in any way with the Governor's veto authority. Nor are there any previous opinions from this office which directly consider the matters you have raised. As a result, we have reviewed a number of case authorities from other jurisdictions pertaining to the veto authority held by a governor, although the applicability of those cases is often limited, given the peculiarities of each state's constitutional provisions in that area and the different factual circumstances before each court. Those case authorities offer some guidance in the present instance.

We will first set out several general rules or conclusions which may be drawn from various cases dealing with gubernatorial veto or line-item veto authority.

1. Several underlying purposes have been offered for a governor's line-item veto authority. Those include: a. the prevention of "log rolling"²

²"Log rolling" involves the practice of jumbling together incongruous subjects in one legislative act in order to force a passage by uniting minorities with different interests when the particular provisions could not

and omnibus appropriation bills, b. the prevention of corruption and the passage of hasty and ill-conceived legislation, and c. the achievement of fiscal constraint and the advancement of statewide rather than parochial fiscal interests, i.e., the governor can excise unneeded programs or expenditures from an appropriations bill to restrain public expenditures. *Washington State Legislature v. Lowry*, 131 Wash.2d 309, 931 P.2d 885 (1997); *State ex rel. Coll v. Carruthers*, 107 N.M. 439, 759 P.2d 1380 (1988); *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985); *Cennarrusa v. Andrus*, 99 Idaho 404, 582 P.2d 1082 (1978).

2. A governor's veto power is a negative power and not a positive power. That is, with respect to line-item vetoes, it is a power to delete or destroy a particular item and not a power to alter, enlarge or increase the effect of remaining items. The line-item veto power is not the power to enact or create new legislation by selective deletions, and a governor does not have the power to enlarge an appropriation by removing restrictions imposed by the legislature. *Opinion of the Justices to the Senate*, 419 Mass. 1201, 643 N.E.2d 1036 (1994); *Harbor v. Deukmejian*, 240 Cal. Rptr. 569, 742 P.2d. 1290 (1987); *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985); *State ex rel. Link v. Olson*, 286 N.W.2d 262 (N.D. 1979); *State ex rel. Sego v. Kirkpatrick*, 86 N.M. 359, 524 P.2d 975 (1974).
3. The governor cannot line-item veto qualifications, conditions, limitations or restrictions on the expenditure of public funds without vetoing the item of expenditure which they modify. Stated another way, if a provision in an appropriation is a condition or restriction imposed by the Legislature, the governor cannot disapprove the restriction alone, he or she must approve the entire appropriation item with the restriction, or disapprove or reduce the entire item with the restriction. *Attorney General v. Administrative Justice of the Boston Municipal Court*, 384 Mass. 511, 427 N.E.2d 735 (1981); *State ex rel. Link v. Olson*, 286 N.W.2d 262 (N.D. 1979); *Opinion of the Justices to the Governor*, 373 Mass. 911, 370 N.E.2d 1350 (1977); *Henry V. Edwards*, 346 So.2d 153 (La. 1977); *Brault v. Holleman*, 217 Va. 441, 230 S.E.2d 238 (1976); *State ex rel. Sego v. Kirkpatrick*, 86 N.M. 359, 524 P.2d 975 (1974); *State ex rel. Cason v. Bond*, 495 S.W.2d 385 (Mo. 1973).
4. The legislature cannot intrude upon the governor's constitutional right to veto substantive matters by inserting inappropriate substantive provisions in an appropriations bill. If that occurs, such substantive provisions will be treated as "items" which are subject to the governor's line-item veto authority. *Colton v. Brandstad*, 372 N.W.2d

pass on their separate merits. *Colorado General Assembly v. Lamm*, 704 P.2d 1371, 1383 (Colo.1985).

184 (la. 1985); *Henry V. Edwards*, 346 So.2d 153 (La.1977).

Application of the rules and conclusions set out above to the present circumstances, particularly those rules dealing with the nature of the line-item veto power and its effect on restrictions or conditions created by a legislature, might seem to suggest that the Governor's vetoes of the "earmarking" provisions at issue in Section 44 of LB 543 are improper as an attempt to create new or altered legislation by selective deletions of restrictions created by the Legislature. However, there is another group of cases which is relevant to this issue.

In *Welden v. Ray*, 229 N.W.2d 706 (la. 1975), the Iowa Supreme Court held that lawful qualifications imposed by the Iowa Legislature upon various appropriations were not separate, severable provisions which could be vetoed by the governor under his line-item veto power. However, in the course of that opinion, the court stated:

We would also have a different case had the legislature attempted to evade the item-veto amendment by the device of a lump-sum appropriation followed by subdivisions calling for the expenditure of the lump sum in specified amounts for named purposes. See *People ex rel. State Board of Agriculture v. Brady*, 277 Ill. 124, 115 N.E. 204 [1917]. The legislature contended in *Brady* that the governor could not item-veto one of the subdivisions without vetoing the lump sum, *as the subdivision constituted qualifications upon the appropriation of the lump sum*. The Illinois Supreme Court held otherwise, however, saying to hold that the whole bill was one item would constitute a legislative evasion of the governor's authority to veto distinct items. . . .

The legislative device of a lump-sum appropriation with subdivisions unconstitutionally invades the item-veto authority of a governor, just as the gubernatorial device of the veto of a qualification on an appropriation unconstitutionally invades the lawmaking authority of a legislature.

Id. at 714 (emphasis in the original). Other cases which have followed the *Brady* "lump sum" rule, at least in some measure, include *Karcher v. Kean*, 97 N.J. 483, 479 A.2d 403 (1984), *Green v. Rawls*, 122 So.2d 10 (Fla. 1960) and *Reardon v. Riley*, 10 Cal.2d 531, 76 P.2d 101 (1938). In the *Karcher* case, the Supreme Court of New Jersey stated:

Courts in other jurisdictions that have specifically considered this issue in the context of similar constitutional provisions for a gubernatorial line-item veto power have upheld the executive's right to reduce or eliminate specific appropriations without reducing by a like amount the total appropriation in which the specific item is included. In *Reardon v. Riley*, the court expressly ruled that the governor's refusal to make a corresponding reduction in a total appropriation equal to the reduction of a lesser-included appropriation does not constitute an unlawful

"affirmative" use of the constitutional veto power.

By upholding this exercise of the line-item veto power, the court reasoned that it not only gave full effect to the intent of the legislature, but also preserved the governor's power to reduce or eliminate items of an appropriation, as well as to approve them. Thus, although the legislature intended to authorize the total appropriation, "regardless of the subsequent fate of the specific and included items of further appropriation," the governor could properly reduce that total by an amount less than the sum of the vetoed included items. Such action on the part of the governor, in the court's opinion, did not

improperly increase an appropriation without legislative action, nor did it constitute an unauthorized veto of conditional or provisional language used in connection with the specific and included items of appropriation. It was an "elimination" of the specific and included items and a reduction of the general and inclusive item of appropriation. Such a conclusion appears to effectuate the intent of the Legislature without depriving the Governor of the full effect of the veto power granted him.

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The result espoused by the Appellate Division in the instant case - disallowing the deletion of an included appropriation without a corresponding reduction of the total appropriation - would too easily permit the Legislature to circumvent the Governor's line-item veto power and upset the system of checks and balances that must operate in the budget-making arena.

Karcher v. Kean, 97 N.J. 483, 499, 500, 479 A.2d 403, 412 (1984)(citations omitted).

It appears to us that the *Brady* "lump sum" rule has application to the present situation. For one thing, the factual circumstances in the various "lump sum" cases which follow the *Brady* rule closely resemble the facts at issue here, i.e., in those cases the legislature appropriated one general sum with other specific appropriation amounts included within that sum, and the governor line-item vetoed the specific appropriations which were part of the total without reducing the general sum to the same extent.³ In contrast, the factual situations in the first group of cases cited above often involved

³ The cases which follow the *Brady* "lump sum" rule do differ from the present circumstance in one respect. The state constitutions at issue in those various cases all contain some language to the effect that those items of an appropriation which are approved by the governor apart from the line-item vetoes shall become law. Art. IV, § 15 of the Nebraska Constitution does not contain such additional "approval" language. We do not believe this constitutes a significant difference.

gubernatorial vetoes of directive language or conditions in appropriations bills without a corresponding reduction in the actual appropriation at issue.

In addition, a number of courts have defined an "item" in an appropriations bill as an "indivisible sum of money dedicated to a stated purpose." *Green v. Rawls*, 122 So.2d 10, 15 (Fla. 1960). *Accord Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985); *Brault v. Holleman*, 217 Va. 441, 230 S.E.2d 238 (1976). That definition comports with the definition of "to appropriate" as defined by the Nebraska Supreme Court. *State ex rel. Norfolk Beet-Sugar Company v. Moore*, 50 Neb. 88, 69 N.W. 373 (1896). It also comports generally with the requirements for a valid appropriation under Neb. Rev. Stat. § 49-804 (1998). In that context, the "earmarking amounts which were vetoed by the Governor in Section 44 of LB 543 appear to "items" of appropriation which might be vetoed by the Governor in that they state that a specific sum of money should be used for a stated purpose.

As a result, in the absence of any clear Nebraska law, we believe that application of the *Brady* "lump sum" rule is appropriate under the circumstances set out in your opinion request. That brings us to your ultimate question as to what should be printed in the slip law.

It appears clear from the Governor's veto procedures regarding the earmarking items at issue that he did not wish to eliminate all appropriations for the programs named therein. He did not place a zero above the items when he crossed them out, and his reduction and veto for the entire Program 25 contained in Section 44 of LB 543 was for an amount less than the amounts of the earmarked items which he vetoed. On that basis you could print the slip law with the language of the earmarked sections intact, minus any number amount, based upon the fact that only the number amount in the earmarked section was vetoed by the Governor. The propriety of that course of action, it seems to us is dependent upon whether any appropriation still exists for the purposes set out in the earmarked sections.

In *Green v. Rawls*, 122 So.2d 10 (Fla. 1960) the governor of Florida vetoed specific sums for salaries of officials set out within a general appropriation for salaries because those salaries were, in his view, too low. The court ultimately held that those same officials could be paid a larger salary than the specific sum originally vetoed by the governor in part because the general appropriation for salaries was undiminished by the governor's veto action with respect to the specific sums with the larger appropriation. Similarly, in *Reardon v. Riley*, 10 Cal.2d 531, 76 P.2d 101 (1938), the Governor of California vetoed items within an appropriation to the Department of Industrial Relations which provided that specific portions of the total appropriation should be expended as therein designated because the governor considered the Department of Industrial Relations better equipped to make the allocations at issue. The court held that those vetoes eliminated the specific items at issue, but did not affect the overall appropriation to the Department. *See also* Op. Att'y Gen. No. # 14 (January

28, 1981) (Veto of earmarked amounts by the Governor left total appropriation available for any of the authorized purposes of the fund.).

In the present instance, it appears to us, based upon the authorities discussed in the previous paragraph, that the general appropriation for Program 25 set out at the beginning of Section 44 is undiminished by the Governor's vetoes of earmarked amounts. As a result, a general appropriation in the reduced amounts approved by the Governor (GENERAL FUND of 811,218,432 for FY2001-02 and 839,912,645 for FY2002-03, together with a PROGRAM TOTAL of 989,538,408 for FY2001-02 and 1,020,020,695 for FY 2002-03) still exists for expenditures within the purposes of Program 25. Since we assume that the various earmarked amounts within Program 25 are permitted within that program it appears to us that an appropriation still exists for the earmarked items which the Governor vetoed. For that reason, we believe that it is appropriate for you to print the slip law with the language of the earmarked sections intact, minus the number amount excised by the Governor.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-350-10.18

Opinion #01033

DATE: September 28, 2001

SUBJECT: Options available to the Legislature in reducing state aid for education in a special session called for the purpose of cutting the state budget.

REQUESTED BY: Senator Pam Brown
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Charlotte R. Koranda, Assistant Attorney General

This opinion is written in response to your request for an opinion regarding options available to the Legislature in reducing state aid to schools in a special session called for the purpose of cutting the state budget. You state that, through the passage of L.B. 543, the Legislature appropriated for the fiscal year 2001-2002 \$635,488,575 from the general fund to the Tax Equity and Educational Opportunities Fund to be distributed as state aid to local school districts. You request a legal analysis as to the options available to the Legislature in passing legislation to reduce this amount.

Tax Equity and Educational Opportunities Support Act

The Tax Equity and Educational Opportunities Support Act ("TEEOSA") is the means under which local school districts receive state aid. TEEOSA is found at Neb. Rev. Stat. §§ 79-1001 to 79-1033 (Cum. Supp. 2000 & Supp. 2001). You ask that our decision include a review of TEEOSA and, in particular, § 79-1022 and § 79-1031.01. You ask whether certification of the amount of state aid creates an entitlement by school districts to this amount and limits the Legislature's ability to reduce it.

The methodology of TEEOSA is based on the legislative findings and intent outlined in Neb. Rev. Stat. § 79-1002 (Cum. Supp. 2000). In general, the Legislature stated the following in § 79-1002. The Legislature declared that public schools were financed too heavily by property taxes and not enough by state funds. The Legislature's goal in enacting TEEOSA was to reduce the reliance on property taxes, broaden the financial support for public schools and assure a greater level of equity in property tax rates and educational opportunities between school districts.

TEEOSA essentially requires the Nebraska Department of Education ("Department"), using the procedures set forth therein and the documentation provided to it by school districts and others, to annually arrive at a state aid figure for each local school system. Neb. Rev. Stat. § 79-1022 (Cum. Supp. 2000), the first statute to which you refer, requires the Department to certify its state aid figures by February 1 each year to the Director of Administrative Services, the Auditor of Public Accounts and to each school district. Section 79-1022 also requires the Department to report to the Governor and to the Legislature's Appropriations and Education Committees the amount of appropriations needed to fund the state aid figures it certified. Subsection (2) of § 79-1022 requires the state aid appropriated by the Legislature to be distributed in ten equal payments on the last day of the month beginning in September of each ensuing school fiscal year and ending in June the following year. If the monthly payment is less than one thousand dollars, the state aid is paid in one lump sum on the last business day of December. School districts are required, pursuant to subsection (2), to show the certified state aid figure as a budgeted non-property-tax receipt and to deduct the figure prior to calculating the property tax request in the district's general fund budget statement provided to the Auditor of Public Accounts.

The other statute to which you refer, Neb. Rev. Stat. § 79-1031.01 (Cum. Supp. 2000), requires the Appropriations Committee of the Legislature, by February 1 for each ensuing fiscal year, to annually include in its recommendations to the Legislature the state aid figures certified by the Department.

We have reviewed TEEOSA in its entirety and do not find any language which would limit the Legislature's ability to reduce the amount of state aid appropriated to schools in L.B. 543. We did find some language in § 79-1022 which seems to indicate that the amount certified will be the amount appropriated. "[T]he [D]epartment [of Education] shall determine

the amounts to be distributed to each local system . . . and shall certify the amounts. . . ." Neb. Rev. Stat. § 79-1022(1) (Cum. Supp. 2000). "[T]he amounts certified pursuant to subsection (1) shall be distributed. . . ." Neb. Rev. Stat. § 79-1022(2) (Cum. Supp. 2000). However, the authority to appropriate money clearly lies with the Legislature. The Nebraska Constitution gives each Legislature the authority, if not the duty, to make appropriations for the expenses of government. "Each Legislature shall make appropriations for the expenses of Government." Neb. Const. art. III, § 22. "The Legislature has plenary or absolute power over appropriations. It may make them upon such conditions and with such restrictions as it pleases within constitutional limits." *State ex rel. Meyer v. State Bd. of Equalization and Assessment*, 185 Neb. 490, 500, 176 N.W.2d 920, 926 (1970).

In addition, if the Legislature intended, thru § 79-1022, to require each Legislature to appropriate the amount certified, it would be an unconstitutional attempt by one legislature to bind a future legislature. "The authority of the legislature is limited to the period of its own existence. One general assembly cannot bind a future one." *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 594, 544 N.W.2d 344, 348 (citation omitted). The Nebraska Supreme Court found in *Stenberg* that an attempt by one legislature to bind a future legislature violated Neb. Const. art. III, §§ 1, 13 and 14 "by attempting to restrict the constitutional power of a succeeding legislature to legislate." *Id.* at 595, 544 N.W.2d at 349.

However, under the rules of statutory construction, it is clear that § 79-1022 is not an unconstitutional delegation of the Legislature's authority to appropriate funds or an unconstitutional attempt by one legislature to bind a future legislature. The rules of statutory construction require us to take into consideration all of the statutes which compromise TEEOSA when determining the meaning of § 79-1022. "The components of a series or collection of statutes pertaining to a certain subject matter may be conjunctively considered and construed to determine the intent of the Legislature so that different provisions of the act are consistent, harmonious, and sensible." *In re Estate of Myers*, 256 Neb. 817, 824, 594 N.W.2d 563, 568 (1999). "Statutes relating to the same subject matter will be construed to maintain a sensible and consistent scheme, so that effect is given to every provision." *Deuth v. Ratigan*, 256 Neb. 419, 425, 590 N.W.2d 366, 372 (1999). Considering TEEOSA in its entirety, it is clear that § 79-1022 was not an attempt to require that the amount certified be the amount appropriated. The Legislature's intent appears to be that the Department take the annual data it receives, apply the formulas set forth in TEEOSA and report the figures to the Legislature for its consideration.

You ask whether the certification creates an entitlement by the school districts to the amount certified and limits the Legislature's ability to reduce the amount. There are two instances under which one legislature can bind a succeeding legislature. The first is when a legislature enters into a valid contract and the other is when the acts of a legislature have created vested

rights. An entitlement is a vested right. " 'One legislature cannot bind a succeeding legislature or restrict or limit the power of its successors to enact legislation, except as to valid contracts entered into by it, and as to rights which have actually vested under its acts, and no action by one branch of the legislature can bind a subsequent session of the same branch. . . . ' " *Stenberg*, 249 Neb. at 593, 544 N.W.2d at 348 (citing C.J.S. *Statutes* § 9 at 24-25 (1953)).

It seems to us that certifications done pursuant to TEEOSA and, in particular, §§ 79-1022 and 79-1031.01, do not create an entitlement by the school districts to the amount certified for at least two reasons. First, "certify" is not defined in TEEOSA. It is used almost five hundred times throughout the Nebraska Revised Statutes. "Certify" as used in TEEOSA does not appear to have a meaning any different than that used elsewhere in Nebraska statutes. "In the absence of anything to the contrary, statutory language is to be given its plain and ordinary meaning; [we] will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous." *Central State Found. v. Balka*, 256 Neb. 369, 374, 590 N.W.2d 832, 837 (1999). "Certify" in its plain, direct and unambiguous meaning means to represent in writing that something is true. See *Black's Law Dictionary* 118 (5th ed. 1983). A similar definition was used by the Nebraska Supreme Court concerning a letter of credit in *Brown v. U.S. Nat'l Bank of Omaha*, 220 Neb. 684, 371 N.W.2d 692 (1985). Certification as used in § 79-1022 is an official written statement by the Department of Education as to the figures it obtained when it took the data provided to it and applied the formulas set forth in TEEOSA. In addition, certification as used in § 79-1031.01 is an official written statement by the Appropriations Committee of the Legislature, recommending to the entire legislative body, the amount of appropriations needed if it wants to fully fund state aid in a particular year as calculated under TEEOSA. Certifications under § 79-1031.01 only result in recommendations for funding levels to the Legislature as a whole. Each Legislature has the option of adopting those certifications or other levels of appropriations.

Other Statutes and the Nebraska Constitution

You also ask that we review any other relevant statutes that might limit the Legislature's ability to provide a reduction in the amount appropriated pursuant to TEEOSA. It is difficult to answer such a broad request. There are no other statutes of which we are aware that would limit the Legislature's ability to reduce the amount of state aid it appropriated for the current fiscal year. "Under all constitutional governments recognizing three distinct and independent magistracies, the control of the purse strings of government is a legislative function." *Meyer*, 185 Neb. at 497-98, 176 N.W.2d at 925 (citing *Colbert v. State*, 86 Miss. 769, 39 So. 65 (1905)).

We feel compelled to point out the Legislature's constitutional duty regarding public education in Nebraska. Neb. Const. art. VII, § 1 states that "[t]he Legislature shall provide for the free instruction in the common

schools of this state of all persons between the ages of five and twenty-one years." Subject to this limitation, the Legislature is free, not only to select the method for financing public education, but also to select the amount of financing paid with state funds.

In conclusion, we have not found any statutes which would prevent or otherwise limit the Legislature's ability to change the amount of state aid previously appropriated to schools for the 2001-2002 fiscal year.

Sincerely,
 DON STENBERG
 Attorney General
 (Signed) Charlotte R. Koranda
 Assistant Attorney General

42-429-10.6

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of

Accounting Division Annual Budgetary Report, June 30, 2001
 Project Status Summary (June 30, 2001)
 Risk Management/State Claims Board, 2000-2001 State Tort Claims Act
 Risk Management/State Claims Board, 2000-2001 State Miscellaneous
 Claims Act
 Risk Management, Workers' Compensation Act

Agriculture, Department of

Part 11, Grade A Pasteurized Milk Ordinance, 1999 Revision
 Grade A Condensed and Dry Milk Products and Condensed and Dry
 Whey, 1995 Revision
 Methods of Making Sanitary Ratings of Milk Supplies, 1999 Revision
 Procedures Governing the Cooperative State-Public Health Service/Food
 and Drug Administration Program of the National Conference on
 Interstate Milk Shipments, 1999 Revision
 Evaluation of Milk Laboratories, 1995 Revision

Agriculture, Nebraska State Board of

Report of Annual Meeting - February 10, 2001

Auditor of Public Accounts

Second Quarter Reports for 2001

NE Department of Administrative Services
 NE Department of Administrative Services - Distribution of Aid to
 Community Colleges
 NE Arts Council
 Boyd County Monitoring Committee - 1/1/98-12/31/00
 NE Commission for the Deaf and Hard of Hearing
 NE Board of Educational Lands and Funds
 NE Ethanol Board
 NE Equal Opportunity Commission
 NE State Board of Examiners for Land Surveyors

NE Health and Human Services System, Report of Specific Procedures -
 Nursing Facilities Intergovernmental Transfers - 7/1/99-12/31/00
 NE Health and Human Services System - Program 345 - Office of
 Juvenile Services Community-Based Program
 NE Commission on Indian Affairs
 NE Commission on Mexican-Americans
 NE Department of Motor Vehicles
 NE Commission on Public Advocacy
 NE Public Employees Retirement Systems - State and County Employees
 Retirement Plans for the calendar year
 NE Tax Equalization and Review Commission
 NE Railway Council
 NE Department of Revenue - SAS 70 Report - Collection and Distribution
 of City Sales Taxes - 12/31/00
 NE Department of Revenue
 NE Department of Roads
 NE Department of Veterans' Affairs

Third Quarter Reports for 2001

NE Department of Correctional Services - Cornhusker State Industries
 NE Health and Human Services System - Program 34 - Alcohol-Drug
 Addiction Aid
 NE Health and Human Services System - Program 344 - Children's
 Health Insurance Program
 NE Health and Human Services System - Medicaid Managed Care
 Program
 NE Health and Human Services System - Thomas Fitzgerald Veterans'
 Home
 NE Natural Resources Commission
 NE Department of Water Resources
 NE State Electrical Division
 NE Governor's Office, State of
 NE Health and Human Services System - Program 622 - Cancer Research
 NE Motor Vehicle Industry Licensing Board
 NE Oil and Gas Conservation Commission
 NE Coordinating Commission for Postsecondary Education
 NE Real Estate Appraiser Board
 NE Department of Revenue - Charitable Gaming Investigation Petty Cash
 Fund
 NE Department of Revenue - Cigarette Tax Receipts
 NE Commission on the Status of Women
 Advisory Letter Educational Service Units Evaluation of Travel Policies
 and Travel Disbursements for the Fiscal Year Ended June 30, 2000 or
 August 31, 2000 and for the Period July 1, 2000 or September 1, 2000
 through April 30, 2001

Criminal Justice, Nebraska Commission on Law Enforcement
 Criminal Homicide Study

Game and Parks Commission
 Game Law Investigation Cash Fund

Health and Human Services System
 April-June 2001 Quarterly Report
 Office of Women's Health Annual Report
 Office of the System Advocate Quarterly Report

Investment Finance Authority, Nebraska

Drinking Water State Revolving Fund Revenue Bonds Series 2000 A
 Clean Water State Revolving Fund Revenue Bonds Series 2000 B
 Drinking Water State Revolving Fund Revenue Bonds Series 2001 A
 Clean Water State Revolving Fund Revenue Bonds Series 2001
 Single Family Housing Revenue Bonds Series 1998 CDE&F and General
 Obligation Bonds Series 1998 G.O.-3
 Single Family Housing Revenue Bonds Series 2000 AB and General
 Obligation Bonds Series 2000 G.O.-9
 Single Family Housing Revenue Bonds Series 2000 EFG and General
 Obligation Bonds Series 2000 G.O.-11
 Single Family Housing Revenue Bonds Series 2001 ABC and General
 Obligation Bonds Series 2001 G.O.-12
 1999 Series A-1, A-2, B-1, B-2, C-1, C-2, D-1, and D-2 Community
 Development Loan Notes (City of Lincoln Program-1999) - Quarterly
 Report

Legislative Program Evaluation Committee

Final Report entitled Nebraska Department of Roads: Use of Consultants
 for Preconstruction Engineering

Motor Vehicles, Department of

2000 Annual Report

Natural Resources, Department of

Annual Report and Plan of Work for NE State Water Planning and
 Review Process

Policy Research Office, Governor's

Municipal Natural Gas Regulation Revolving Loan Fund for the quarter
 ending June 30, 2001

Power Review Board

Eleventh Biennial Report from July 1, 1998 through June 30, 2000
 "Conditions Certain" Annual Report

Public Service Commission

2001 Annual Report on Telecommunications

Revenue, Nebraska Department of

Certification of General Fund net receipts for fiscal year beginning July 1,
 2001. Monthly receipt estimates derived from the annual net receipt
 estimate of the Nebraska Economic Forecasting Advisory Board
 produced April 20, 2001. (Prepared jointly by the Department of
 Revenue and Legislative Fiscal Analyst)
 Report of Examination of State of Nebraska Auditor of Public Accounts
 for FY ending June 30, 2000

Roads, Department of

Board of Public Roads Classifications and Standards Minutes for May 18,
 2001
 Legislative Program Evaluation Committee Final Report entitled
 Nebraska Department of Roads: Use of Consultants for Preconstruction
 Engineering
 Board of Public Roads Classifications and Standards Minutes for June 15,
 2001
 Nebraska State Highway Commission Quarterly Report for period ending
 June 30, 2001
 Board of Public Roads Classifications and Standards Minutes for July 20,
 2001

COMMUNICATION

Received a copy of House Resolution 1, which was adopted during a recent Extraordinary Session of the West Virginia Legislature expressing the sense of the House of Delegates and decrying the outrageous terrorist attacks launched against the United States on Tuesday, September 11, 2001, expressing sympathy to the families and friends of those killed or injured, and urging the President of the United States and other federal officials to deal swiftly with those who threaten our freedom.

EXECUTIVE BOARD ANNOUNCEMENT

The Executive Board announced the following committee changes made over the interim:

Senator Philip Erdman has been appointed to the Agriculture Committee and no longer serves on the Urban Affairs Committee.

Senator Vickie McDonald has been appointed to the Urban Affairs Committee, Government, Military and Veterans Affairs Committee, General Affairs Committee, and Intergovernmental Cooperation Committee.

MOTION - Notify Governor

Senator Kristensen moved that a committee of five be appointed to notify the Governor that the Legislature is now convened, organized, and ready for the transaction of business and to return with any message the Governor may have for this, the Ninety-Seventh Legislature, First Special Session of the Nebraska Legislature.

The motion prevailed.

The Chair appointed Senators Wehrbein, Wickersham, Schimek, McDonald, and D. Pederson to serve on said committee.

The committee returned and escorted Governor Mike Johanns to the rostrum where he delivered a message to the members.

The committee escorted Governor Johanns from the Chamber.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. Introduced by Speaker Kristensen, 37; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 24A, section 1; Laws 2001, LB 152A, section 1; Laws 2001, LB 244A,

section 1; Laws 2001, LB 313A, section 1; Laws 2001, LB 329A, section 1; Laws 2001, LB 335A, section 1; Laws 2001, LB 468A, section 2; Laws 2001, LB 542, sections 9, 34, 43, 44, 48, 51, and 57; Laws 2001, LB 543, sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 24, 25, 26, 29, 31, 33, 34, 37, 38, 39, 40, 44, 46, 48, 49, 51, 53, 57, 58, 59, 68, 69, 70, 71, 72, 73, 75, 80, 81, 82, 83, 84, 90, 95, 96, 97, 102, 103, 105, 109, 110, 112, 113, 118, 123, 124, 125, 127, 128, 130, 131, 136, 137, 142, 143, 144, 145, 146, 147, 149, 150, 151, 154, 156, 159, 161, 162, 163, 166, 167, 168, 169, 170, 171, 172, 175, 176, 177, 189, 190, 191, 192, 193, 197, 198, 199, 200, 201, 202, 203, 204, 207, 209, 210, 213, 214, 215, 216, 217, 219, 220, 221, 222, 223, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 241, 244, 247, 252, 255, 258, 259, 261, 262, and 268; Laws 2001, LB 640A, sections 1, 2, 3, and 4; Laws 2001, LB 659A, section 1; Laws 2001, LB 666A, section 1; and Laws 2001, LB 772A, section 1; to define terms; to change appropriations as prescribed; to change transfers; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 2. Introduced by Speaker Kristensen, 37; at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-seventh Legislature, First Special Session, 2001; and to declare an emergency.

LEGISLATIVE BILL 3. Introduced by Speaker Kristensen, 37; at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend section 29-2259.01, Reissue Revised Statutes of Nebraska, section 79-8,136, Revised Statutes Supplement, 2000, and sections 9-812, 71-7607, 71-7609, 76-903, and 79-1010, Revised Statutes Supplement, 2001; to change allocations of certain funds; to change provisions relating to incentive payments; to provide operative dates; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 4. Introduced by Speaker Kristensen, 37; at the request of the Governor.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,222, Revised Statutes Supplement, 2001, and Laws 2001, LB 433, section 8; to change the operative date for a child care tax credit; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 5. Introduced by Coordsen, 32.

A BILL FOR AN ACT relating to education; to amend sections 79-1001 and 79-1010, Revised Statutes Supplement, 2001; to change provisions relating to incentives for reorganization; to harmonize provisions; and to

repeal the original sections.

LEGISLATIVE BILL 6. Introduced by Wickersham, 49; Coordsen, 32; D. Pederson, 42; Wehrbein, 2.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,188.01, Reissue Revised Statutes of Nebraska, section 77-5408, Revised Statutes Supplement, 2000, and sections 77-4106, 77-5531, and 77-5533, Revised Statutes Supplement, 2001; to change provisions dealing with funding for credits and refunds under certain incentive provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 7. Introduced by Wickersham, 49.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2101 to 77-2105, 77-2108, and 77-2113, Reissue Revised Statutes of Nebraska; to change calculations relating to estate taxes and generation-skipping transfer taxes; to harmonize provisions; to provide for applicability; to provide an operative date; to repeal the original sections; and to declare an emergency.

EASE

The Legislature was at ease from 3:40 p.m. until 4:31 p.m.

SENATOR DIERKS PRESIDING

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits this report of the following legislative bills:

LB/LR	Committee
LB 1	Appropriations
LB 2	General File
LB 3	Appropriations
LB 4	Revenue
LB 5	Education
LB 6	Revenue
LB 7	Revenue

(Signed) George Coordsen, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS Appropriations

LB 1 Friday, October 26, 2001

1:30 PM

LB 3 Friday, October 26, 2001 1:30 PM

Friday, October 26, 2001 1:30 PM

AGENCY 14 - Public Service Commission
 AGENCY 18 - Dept. of Agriculture
 AGENCY 21 - State Fire Marshal
 AGENCY 23 - Dept. of Labor
 AGENCY 27 - Dept. of Roads
 AGENCY 29 - Dept. of Natural Resources
 AGENCY 31 - Military
 AGENCY 33 - Game & Parks Commission
 AGENCY 52 - State Board of Agriculture
 AGENCY 84 - Dept. of Environmental Quality
 AGENCY 90 - Nebraska Railway Council

Monday, October 29, 2001 9:00 AM

AGENCY 35 - Liquor Control Commission
 AGENCY 38 - Women's Commission
 AGENCY 67 - Equal Opportunity Comm.
 AGENCY 68 - Mexican American Comm.
 AGENCY 70 - Foster Care Review Board
 AGENCY 76 - Nebraska Indian Commission
 AGENCY 81 - Blind & Visually Impaired
 AGENCY 82 - Comm. Deaf & Hard of Hearing
 AGENCY 20 - HHS -- Regulation & Licensure
 AGENCY 25 - Health & Human Services
 AGENCY 26 - HHS -- Finance & Support
 AGENCY 28 - Dept. of Veterans' Affairs

Monday, October 29, 2001 1:30 PM

AGENCY 3 - Legislative Council
 AGENCY 65 - Dept. of Administrative Services
 AGENCY 72 - Dept. of Economic Development
 AGENCY 77 - Comm. of Industrial Relations
 AGENCY 87 - Account. and Disclosure Comm.
 AGENCY 93 - Tax Equalization & Review
 AGENCY 95 - Rural Development Commission
 AGENCY 96 - Property Assessment & Taxation
 AGENCY 7 - Governor
 AGENCY 8 - Lieutenant Governor
 AGENCY 9 - Secretary of State
 AGENCY 10 - Auditor of Public Accounts
 AGENCY 12 - State Treasurer
 AGENCY 16 - Dept. of Revenue
 AGENCY 32 - Bd. of Educational Lands-Funds

Tuesday, October 30, 2001 9:00 AM

AGENCY 47 - Educational Telecommunications
 AGENCY 5 - Supreme Court

AGENCY 11 - Attorney General
 AGENCY 13 - Dept. of Education
 AGENCY 15 - Board of Pardons
 AGENCY 34 - Nebraska Library Commission
 AGENCY 46 - Correctional Services
 AGENCY 54 - State Historical Society
 AGENCY 64 - State Patrol
 AGENCY 69 - Nebraska Arts Council
 AGENCY 78 - NE Commission on Law Enforcement
 AGENCY 94 - Comm. on Public Advocacy

Tuesday, October 30, 2001

1:30 PM

AGENCY 48 - Postsecondary Education
 AGENCY 50 - State College System
 AGENCY 51 - University Systemwide
 AGENCY 83 - Community College Aid

(Signed) Roger R. Wehrbein, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 1. Introduced by Thompson, 14.

WHEREAS, the Papillion-La Vista High School girls' gymnastics team earned a trip to the All-State Invitational Gymnastics Meet; and

WHEREAS, on October 19, 2001, the Papillion-La Vista High School girls' gymnastics team won its first-ever state team championship; and

WHEREAS, the coaching staff and the members of the Papillion-La Vista High School girls' gymnastics team achieved this outstanding accomplishment through their hard work, fortitude, and determination.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature recognizes and congratulates the Papillion-La Vista High School Monarchs girls' gymnastics team for its outstanding accomplishment.

2. That a copy of this resolution be sent to the Papillion-La Vista High School girls' gymnastics team and Head Coach Scott Zymball.

Laid over.

LEGISLATIVE RESOLUTION 2. Introduced by Thompson, 14.

WHEREAS, the Papillion-La Vista High School girls' softball team entered the 2001 season as the six-time defending Class A Nebraska state champions; and

WHEREAS, on October 12, 2001, the Papillion-La Vista High School girls' softball team won its 25th consecutive state tournament game and the 2001 Class A state championship, repeating its championship successes of

1995, 1996, 1997, 1998, 1999, and 2000; and

WHEREAS, head coach Mike Govig and the members of the Papillion-LaVista High School girls' softball team exemplified dedication, discipline, and perseverance through talent and hard work.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature recognizes and congratulates coaches and members of the 2001 Papillion-LaVista High School Monarchs girls' softball team for their outstanding accomplishments.

2. That a copy of this resolution be sent to the Papillion-LaVista High School girls' softball team and head coach Mike Govig.

Laid over.

ADJOURNMENT

At 4:32 p.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Friday, October 26, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

SECOND DAY - OCTOBER 26, 2001**LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, October 26, 2001

PRAYER

The prayer was offered by Senator Dierks.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Byars who was excused; and Senator Hilgert who was excused until he arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the first day was approved.

NOTICE OF COMMITTEE HEARING**Revenue**

LB 4	Monday, October 29, 2001	1:30 PM
LB 6	Monday, October 29, 2001	1:30 PM
LB 7	Monday, October 29, 2001	1:30 PM

(Signed) William R. Wickersham, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 8. Introduced by Wickersham, 49.

A BILL FOR AN ACT relating to the Nebraska Health Care Cash Fund; to amend sections 71-7611.01, 71-7611.02, 71-7611.04, and 71-7611.05, Revised Statutes Supplement, 2001; to state and restate intent regarding appropriations; to repeal the original sections; and to declare an emergency.

ANNOUNCEMENT

The Chair announced today is Senator Thompson's birthday.

EASE

The Legislature was at ease from 9:09 a.m. until 11:09 a.m.

SENATOR DIERKS PRESIDING**BILLS ON FIRST READING**

The following bills were read for the first time by title:

LEGISLATIVE BILL 9. Introduced by Wickersham, 49.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 76-903, Revised Statutes Supplement, 2001; to change provisions related to the documentary stamp tax; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 10. Introduced by Beutler, 28; Jensen, 20.

A BILL FOR AN ACT relating to the Nebraska Medicaid Intergovernmental Trust Fund; to amend section 71-7607, Revised Statutes Supplement, 2001; to reallocate a portion of the fund; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 11. Introduced by Beutler, 28; Jensen, 20.

A BILL FOR AN ACT relating to the Nursing Facility Conversion Cash Fund; to amend section 71-7609, Revised Statutes Supplement, 2001; to change distribution of the fund; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 12. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to schools; to amend section 79-1015.01, Revised Statutes Supplement, 2001; to change provisions relating to state aid; and to repeal the original section.

LEGISLATIVE BILL 13. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3442 and 79-1008.01, Revised Statutes Supplement, 2001; to change property tax levy restrictions and state aid calculations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 14. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to schools; to amend section 79-1010, Revised Statutes Supplement, 2001; to change provisions relating to incentive payments; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 15. Introduced by Brashear, 4.

A BILL FOR AN ACT relating to the Probation Cash Fund; to amend section 29-2259.01, Reissue Revised Statutes of Nebraska; to change provisions relating to the fund; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 16. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to schools; to amend section 79-8,136, Revised Statutes Supplement, 2000, and section 9-812, Revised Statutes Supplement, 2001; to change allocations of certain funds; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 17. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to education funding; to amend sections 9-812 and 79-1018.01, Revised Statutes Supplement, 2001; to change provisions relating to allocation of the Education Innovation Fund; to eliminate quality education incentive payments; to harmonize provisions; to repeal the original sections; to outright repeal section 79-758, Revised Statutes Supplement, 2000; and to declare an emergency.

LEGISLATIVE BILL 18. Introduced by Kristensen, 37.

A BILL FOR AN ACT relating to education; to amend section 9-812, Revised Statutes Supplement, 2001; to create the Higher Education Environmental Research and Study Fund; to provide for funding; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 19. Introduced by Vrtiska, 1; Engel, 17; Janssen, 15; D. Pederson, 42; Wickersham, 49.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2602, Revised Statutes Supplement, 2001; to change distribution of tax proceeds; to repeal the original section; and to declare an emergency.

EASE

The Legislature was at ease from 11:12 a.m. until 11:30 a.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits this report of the following legislative bills and appointments:

LB/LR	Committee
LB 8	Health and Human Services/Appropriations
LB 9	Revenue
LB 10	Health and Human Services
LB 11	Health and Human Services
LB 12	Education
LB 13	Revenue
LB 14	Education
LB 15	Judiciary
LB 16	Education
LB 17	Education
LB 18	Education
LB 19	Appropriations

Bair, Michael - Environmental Quality Council - Natural Resources

Bergmeyer, John - Accountability and Disclosure Commission - Government, Military and Veterans Affairs

Books, Ronald W. - State Highway Commission - Transportation and Telecommunications

Casmer, Esther - Board of Parole - Judiciary

Coyne, Richard - Nebraska Liquor Control Commission - General Affairs

Eichelberger, Larry - Rural Health Advisory Commission - Health and Human Services

Fagerland, Jerome - State Highway Commission - Transportation and Telecommunications

Fields, Lon - State Emergency Response Commission - Government, Military and Veterans Affairs

Grell, Allen - State Emergency Response Commission - Government, Military and Veterans Affairs

Heiden, Linda J. - Health and Human Services System Partnership Council - Health and Human Services

Isom, David, M.D. - Rural Health Advisory Commission - Health and Human Services

Leung, Kam-Ching - Nebraska Arts Council - General Affairs

List, Pam - Rural Health Advisory Commission - Health and Human Services

Marvin, Sharon - Nebraska Arts Council - General Affairs

Miller, Dana - State Emergency Response Commission - Government, Military and Veterans Affairs

Nelson, W. Don - Nebraska Investment Council - Nebraska Retirement Systems

Newman, Sharee - Nebraska Arts Council - General Affairs

Orr, Cinda - Nebraska Arts Council - General Affairs

Powell, Richard L. - Board of Educational Lands and Funds - Education

Reimers, Mark - State Emergency Response Commission - Government, Military and Veterans Affairs

Reiser, Richard S. - State Highway Commission - Transportation and Telecommunications

Ridder, Mary - Rural Health Advisory Commission - Health and Human Services

Stuckey, Todd, M.D. - Rural Health Advisory Commission - Health and Human Services

Taylor, Donald N., D.D.S. - Rural Health Advisory Commission - Health and Human Services

Woodhead, Barbara J. - Commission for the Deaf and Hard of Hearing - Health and Human Services

Woods, Donna - Nebraska Arts Council - General Affairs

(Signed) George Coordsen, Chairperson
Legislative Council
Executive Board

EASE

The Legislature was at ease from 11:31 a.m. until 11:43 a.m.

**NOTICE OF COMMITTEE HEARINGS
Natural Resources**

Monday, October 29, 2001

1:00 PM

Michael Bair - Environmental Quality Council

(Signed) Ed Schrock, Chairperson

Health and Human Services

Monday, October 29, 2001

2:30 PM

Barbara J. Woodhead - Commission for the Deaf and Hard of Hearing

Linda J. Heiden - Health and Human Services System Partnership Council

Larry Eichelberger - Rural Health Advisory Commission

David Isom, M.D - Rural Health Advisory Commission

Pam List - Rural Health Advisory Commission

Mary Ridder - Rural Health Advisory Commission

Todd Stuckey, M.D. - Rural Health Advisory Commission

Donald N. Taylor, D.D.S. - Rural Health Advisory Commission

(Signed) Jim Jensen, Chairperson

Revenue

LB 9 Monday, October 29, 2001

1:30 PM

LB 13 Monday, October 29, 2001

1:30 PM

(Signed) William R. Wickersham, Chairperson

UNANIMOUS CONSENT - Add Cointroducers

Senators Dierks, Jones, Tyson, Cunningham, Hudkins, Redfield, Jensen, Erdman, Quandahl, Baker, and Burling asked unanimous consent to have their names added as cointroducers to LB 1, LB 3, and LB 4. No objections. So ordered.

ADJOURNMENT

At 11:44 a.m., on a motion by Senator Kremer, the Legislature adjourned until 3:00 p.m., Monday, October 29, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

THIRD DAY - OCTOBER 29, 2001
LEGISLATIVE JOURNAL
NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION

THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Monday, October 29, 2001

PRAYER

The prayer was offered by Senator Kruse.

ROLL CALL

Pursuant to adjournment, the Legislature met at 3:00 p.m., President Heineman presiding.

The roll was called and all members were present except Senators Connealy and Dw. Pedersen who were excused; and Senators Aguilar, Hartnett, D. Pederson, and Preister who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the second day was approved.

NOTICE OF COMMITTEE HEARINGS
Education

LB 5	Tuesday, October 30, 2001	2:45 PM
LB 12	Tuesday, October 30, 2001	2:45 PM
LB 14	Tuesday, October 30, 2001	2:45 PM
LB 16	Tuesday, October 30, 2001	10:00 AM
LB 17	Tuesday, October 30, 2001	10:00 AM
LB 18	Tuesday, October 30, 2001	10:00 AM

(Signed) Ron Raikes, Chairperson

Health and Human Services

LB 10	Tuesday, October 30, 2001	1:30 PM
LB 11	Tuesday, October 30, 2001	1:30 PM

(Signed) Jim Jensen, Chairperson

Health and Human Services/Appropriations

LB 8 Tuesday, October 30, 2001 4:00 PM

(Signed) Jim Jensen, Chairperson
(Signed) Roger R. Wehrbein, Chairperson

Judiciary

Tuesday, October 30, 2001 8:30 AM
Esther Casmer - Board of Parole

LB 15 Tuesday, October 30, 2001 8:30 AM

(Signed) Kermit A. Brashear, Chairperson

Government, Military and Veterans Affairs

Tuesday, October 30, 2001 11:00 AM
John Bergmeyer - Accountability and Disclosure Commission
Allen Grell - State Emergency Response Commission
Mark Reimers - State Emergency Response Commission

(Signed) DiAnna R. Schimek, Chairperson

Transportation and Telecommunications

Wednesday, October 31, 2001 1:00 PM
Ronald W. Books - State Highway Commission
Jerome Fagerland - State Highway Commission
Richard S. Reiser - State Highway Commission

(Signed) Curt Bromm, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 20. Introduced by Stuhr, 24; Baker, 44; Bruning, 3; Hudkins, 21; Jensen, 20; Kremer, 34; Quandahl, 31; Redfield, 12; Robak, 22; Smith, 48; Suttle, 10; Tyson, 19.

A BILL FOR AN ACT relating to correctional facilities; to delay opening of the Tecumseh Correctional Center; and to declare an emergency.

EASE

The Legislature was at ease from 3:26 p.m. until 3:43 p.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits this report of the following legislative bill:

LB/LR **Committee**
LB 20 Appropriations

(Signed) George Coordsen, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARING
Appropriations

LB 19 Wednesday, October 31, 2001 9:00 AM
LB 20 Wednesday, October 31, 2001 9:00 AM

(Signed) Roger R. Wehrbein, Chairperson

STANDING COMMITTEE REPORT
Natural Resources

The Natural Resources Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Environmental Quality Council
Michael Bair

VOTE: Aye: Senators Bromm, Bruning, Hudkins, Jones, Kremer, Schrock, and Stuhr. Nay: None. Absent: Senator Preister.

(Signed) Ed Schrock, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Cunningham asked unanimous consent to have his name added as cointroducer to LB 20. No objections. So ordered.

ADJOURNMENT

At 3:44 p.m., on a motion by Speaker Kristensen, the Legislature adjourned until 9:00 a.m., Tuesday, October 30, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTH DAY - OCTOBER 30, 2001**LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION****FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, October 30, 2001

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Kristensen presiding.

The roll was called and all members were present except Senators Bromm, Brown, Hartnett, Hilgert, Landis, Quandahl, and Robak who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the third day was approved.

STANDING COMMITTEE REPORTS**Revenue**

LEGISLATIVE BILL 4. Placed on General File.

LEGISLATIVE BILL 9. Placed on General File as amended.

Standing Committee amendment to LB 9:

AM9008

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 76-903, Revised Statutes Supplement,
- 4 2001, is amended to read:
- 5 76-903. The Tax Commissioner shall design such stamps in
- 6 such denominations as in his or her judgment will be the most
- 7 advantageous to all persons concerned. When any deed subject to
- 8 the tax imposed by section 76-901 is offered for recordation, the
- 9 register of deeds shall ascertain and compute the amount of the tax
- 10 due thereon and shall collect such amount as a prerequisite to
- 11 acceptance of the deed for recordation. If a dispute arises

12 concerning the taxability of the transfer, the register of deeds
 13 shall not record the deed until the disputed tax is paid. If a
 14 disputed tax has been paid, the taxpayer may file for a refund
 15 pursuant to section 76-908. The taxpayer may also seek a
 16 declaratory ruling pursuant to rules and regulations adopted and
 17 promulgated by the Department of Revenue. From each one dollar and
 18 seventy-five cents of tax collected pursuant to section 76-901, the
 19 register of deeds shall retain fifty cents to be placed in the
 20 county general fund and shall remit the balance to the State
 21 Treasurer who shall credit one dollar of such amount to the
 22 Affordable Housing Trust Fund and twenty-five cents of such amount
 23 to the Homeless Shelter Assistance Trust Fund, except that
 24 beginning January 1, 2002, and ending December 31, 2003, the State
 1 Treasurer shall credit the balance as follows: Fifty cents of such
 2 amount to the Affordable Housing Trust Fund; twenty-five cents of
 3 such amount to the Homeless Shelter Assistance Trust Fund; and
 4 fifty cents of such amount to the General Fund.
 5 Sec. 2. Original section 76-903, Revised Statutes
 6 Supplement, 2001, is repealed.
 7 Sec. 3. Since an emergency exists, this act takes effect
 8 when passed and approved according to law."

LEGISLATIVE BILL 13. Indefinitely postponed.

(Signed) William R. Wickersham, Chairperson

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Commission for the Deaf and Hard of Hearing
 Barbara J. Woodhead

Health and Human Services System Partnership Council
 Linda J. Heiden

Rural Health Advisory Commission
 Larry Eichelberger
 David Isom, M.D.
 Pam List
 Mary Ridder
 Todd Stuckey, M.D.
 Donald N. Taylor, D.D.S.

VOTE: Aye: Senators Jensen, Byars, Suttle, Price, Cunningham, Maxwell, and Erdman. Nay: None. Absent: None.

(Signed) Jim Jensen, Chairperson

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of October 30, 2001, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Abboud, Chris, Public Affairs Group

City of Omaha, Mayor (Withdrawn 06/12/2001)
Nebraska Credit Union League Affiliates

Adams, John H.

Oasis Technologies, Inc. (Withdrawn 10/04/2001)

American Communications Group, Inc.

Community Preservation Assistance Coalition
NE Girl Scout Legislative Monitoring Network

Beaver, Debbie

Williams Companies (Withdrawn 07/16/2001)

Brandt, Henry F.

Bailey-Lauerman & Associates, Inc. (Withdrawn 06/07/2001)

Brinkman, Jennifer

City of Lincoln (Withdrawn 06/18/2001)

Brown, Vincent D.

American Petroleum Institute (Withdrawn 06/01/2001)

Bruning, Deonne L.

Cox Nebraska Telcom, L.L.C.

Budler, Joy L.

Nebraska Retail Federation (Withdrawn 06/07/2001)

Bukar, Nancy

Consumer Healthcare Products Association (Withdrawn 08/03/2001)

Campbell, Mary M.

MultiState Associates, Inc. on behalf of PharMerica

Comart, Kim

Consumers Union

Cutshall & Associates

World Wide Packets (Withdrawn 10/09/2001)

Engel, Michelle L.

AT&T Corporation (Withdrawn 08/23/2001)

Flannery, John S.

Verizon Communications (formerly GTE) (Withdrawn 10/09/2001)

Goldbery, Rebecca

Consumers Union

Gottschalk, Kristen

Nebraska Rural Electric Association

Hansen, Hal Anthony

Association of Students of the University of Nebraska (Withdrawn
08/17/2001)

Kamm, Richard D.

Grand Island Northwest High School (Withdrawn 07/12/2001)

Knapp, Patricia

Nebraska Sierra Club (Withdrawn 10/16/2001)

Krueger, Gayle E.

AIA Nebraska (Withdrawn 07/16/2001)

Marfisi, Thomas C.

City of Omaha, Mayor (Withdrawn 07/16/2001)

McKenzie, Janis M.

Nebraska Association for the Gifted

McKinlay, Aleisa C.

Nebraska Advocacy Services, Inc. (Withdrawn 09/18/2001)

Mills, Jack D.

Nebraska Intergovernmental Risk Management Association (Withdrawn
07/30/2001)

Moylan, James H.

Corrections Corporation of America (Withdrawn 08/10/2001)

O'Hara & Associates, Inc.

Cox Nebraska Telcom, L.L.C. (Withdrawn 10/09/2001)

GTECH Corporation (Withdrawn 07/31/2001)

Schmit Industries, Inc.

Sutherland Ethanol

Schuele, Joe

ALLTEL Communications (Withdrawn 10/15/2001)

Shipper, John

National Rifle Association Institute for Legislative Action (Withdrawn
07/27/2001)

Sidwell, Scott E.

Nebraska Association of County Officials (Withdrawn 05/31/2001)

Solem, Calvin C.

Associated General Contractors, Nebraska Building Chapter (Withdrawn
08/14/2001)

Vickers, Tom

Nebraskans for Wilderness Camps (Withdrawn 07/13/2001)

Winston, Ken

Nebraskans Against the Death Penalty

Wylie, William M.

Grand Island Northwest High School (Withdrawn 07/09/2001)

Young, Philip M.

Nebraskans for Fair Competition (Withdrawn 10/24/2001)

ADJOURNMENT

At 9:14 a.m., on a motion by Senator Redfield, the Legislature adjourned
until 9:00 a.m., Friday, November 2, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - NOVEMBER 2, 2001
LEGISLATIVE JOURNAL
NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION

FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, November 2, 2001

PRAYER

The prayer was offered by Senator Vrtiska.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator D. Pederson who was excused; and Senators Kruse, Landis, Raikes, and Wickersham who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 52, strike lines 13 and 14.
The Journal for the fourth day was approved as corrected.

STANDING COMMITTEE REPORTS
Health and Human Services

LEGISLATIVE BILL 10. Placed on General File.
LEGISLATIVE BILL 11. Placed on General File.

(Signed) Jim Jensen, Chairperson

ATTORNEY GENERAL'S OPINION

Opinion #01034

DATE: October 31, 2001
SUBJECT: Scope of Governor's Special Session Call; LB 6, LB 7
and LB 19

REQUESTED BY: Senator Mark Quandahl
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You have requested an Attorney General's Opinion as to whether LB 6, LB 7 and LB 19, 97th Legislature, First Special Session, are within the scope of the Governor's call dated October 23, 2001. You also ask "what would be the likely outcome or effect if the Legislature attempted to consider or enact" the bills if they are found by a court to be outside the scope of the call.

Our analysis must begin with the Nebraska Constitution. Article IV, Section 8 of the Nebraska Constitution provides: "The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together." (emphasis added).

In construing this provision, the Nebraska Supreme Court described its terms as follows:

Neb. Const. art. IV, § 8, as part of the power of the executive branch of government, permits the Governor to determine when an extraordinary occasion exists, necessitating convention of a special session of the Nebraska Legislature. The subject matter restriction envisioned in Neb. Const. art. IV, § 8, empowers the Governor to set the boundaries of legislative action permissible at a special session of the Nebraska Legislature.

Jaksha v. State, 222 Neb. 690, 698, 385 N.W. 2d 922 (1986). Therefore, as was discussed in Op. Att'y Gen. No. 89069 (Nov. 9, 1989), the last portion of Article IV, Section 8 places an express limitation on the power of the Legislature to act during a special session. In *Arrow Club, Inc. v. Nebraska Liquor Control Commission*, 177 Neb. 686, 689, 131 N.W.2d 134, 137 (1964), the court discussed the nature of this limitation:

It is well established that the Legislature while in special session can transact no business except that for which it was called together. *Chicago, B. & Q. R.R. Co. v. Wolfe*, 61 Neb. 502, 86 N.W. 441. The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation.

(emphasis added).

The court in *Arrow Club*, quoting at length from the Pennsylvania Supreme Court's decision in *Commonwealth ex rel. Schnader v. Liveright*, 306 Pa. 35, 161 A. 697 (1932), continued as follows:

This constitutional provision contemplates that there shall first exist in the executive mind a definite conception of the public emergency which demands an extraordinary session. His mental attitude or intention is expressed in his proclamation, the purpose of which is to inform the members of the legislature of subjects for legislation, and to advise the public generally that objections may be presented if desired. It is not only a guide or chart with respect to which the legislature may act, but also a check restricting its actions so that rights may not be affected without notice. The proclamation may contain many or few subjects according to the governor's conception of the public need. While the subjects may be stated broadly or in general terms, the special business, as related to the general subject on which legislation is desired, should be designated by imposing qualifying matter to reduce or restrict. Although the subjects should be sufficient to evoke intelligent and responsive action from the legislature, it is not necessary that they include all the methods of accomplishment. The guiding principle in sustaining legislation of a special session is that it be germane to, or within, the apparent scope of the subjects which have been designated as proper fields for legislation. In construing a call the words of any portion thereof must be interpreted not only as commonly and universally understood, but also as applicable to the subject intended to be affected by legislation.

While the legislature must confine itself to the matters submitted, it need not follow the views of the governor or legislate in any particular way. Within the special business or designated subjects submitted, the legislature cannot be restricted or dictated to by the governor. It is a free agent, and the governor, under the guise of definition, cannot direct or control its action. The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction.

Arrow Club, 177 Neb. at 689-90, 131 N.W.2d at 137.

As was stated in Op. Att'y Gen. No. 86028 (Nov. 14, 1986), "the decision in *Arrow Club*, reflects certain general principles regarding the limitations imposed on legislative action by virtue of the scope of the executive's call for a special legislative session. First, courts uniformly agree that, for a legislative enactment to be valid under the call, the legislation must be 'germane' or 'related to' the subjects stated in the call. Second, it is universally held that the Governor's call cannot be used to inhibit legislative discretion, and that . . . 'the Governor may not, under the guise of naming a subject, limit its scope so drastically that he in effect imposes upon the

Legislature his own view of what policy should be adopted.' Comment, Scope of Governor's Call as Constitutional Limitation on Business of Special Session of the Legislature, 43 Neb. L. Rev. 605, 608-09 (1964)."

Thus, the primary case which guides our analysis contains language narrowly construing the constitutional provision, *Arrow Club*, 177 Neb. at 689 ("The proclamation . . . may limit the consideration to a specified phase of a general subject."), but also contains language indicating the provision is to be liberally construed to uphold legislative acts. *Id.* at 690 ("an act should be held to be within the call if it can be done by any reasonable construction."). In light of this somewhat confusing language, it is useful in understanding the case to examine what the court in *Arrow Club* actually did, as well as what it said.

In *Arrow Club* the court considered the validity of a bill enacted during a special session that related to "the regulation and operation of bottle clubs." *Arrow Club*, 177 Neb. at 690. The special session had been convened "to consider amendments to the Liquor Control Act relating to the licensing of nonprofit corporations." *Id.* Thus, the question before the court was "whether the regulation and operation of bottle clubs relates to, is germane to, or has a natural connection with the definition of nonprofit corporations." *Id.* The court concluded,

There is a fundamental difference between a nonprofit corporation license and a bottle club license under the Liquor Control Act. A bottle club license authorizes the storage and consumption of liquor upon the premises of the licensee by persons who have made their own purchase of liquor. . . . A nonprofit corporation license is a retail license for the sale of alcoholic liquors, including beer. * * * In view of this difference, we think the regulation and operation of bottle clubs does not relate to, is not germane to, and has no natural connection with the definition of nonprofit corporations.

Id. at 691.

The court, therefore, struck down the provisions as violating Neb. Const. art. IV, § 8. *Id.* at 692. Thus, despite the fact the bill and the Governor's call both pertained to issuance of licenses under the Liquor Control Act, the court adopted a narrow view of germaneness, limiting it to "a specified phase of a general subject." *Id.* at 689. Since bottle club licenses did not cover retail sales of alcoholic beverages, the two were not considered to have a "natural connection" with each other.

In light of the *Arrow Club* decision, it appears the Nebraska Supreme Court would take a restrictive view of what legislation is considered germane to a Governor's special session call. As one Supreme Court judge stated some fifteen years after *Arrow Club*,

It is clear that the drafters of our Constitution only meant to allow the

Legislature to transact that business for which it was called into special session and no other. This is made obvious by the remarks of Delegate Robinson during the debate on this particular provision of the Constitution at the 1871 Constitutional Convention. He stated: "It is well known that a Constitutional provision of this kind acts as an indication of the powers of the Legislature; and if the Constitution provides that no business of a certain character shall be transacted, it means what it says; and if business is transacted, it is treated as no business, whatever."

State ex rel. Douglas v. State Board of Equalization and Assm't, 205 Neb. 130, 144, 286 N.W.2d 729 (1979) (Brodkey, J., concurring) (quoting 1 Nebraska Constitutional Conventions 190 (1906)). *See also* Op. Att'y Gen. No. 89072 (Nov. 14, 1989) ("It should be noted that our Supreme Court, as evidenced by the decision in *Arrow Club* . . . has adopted a rather restrictive view in assessing whether legislation enacted in a special session falls within the scope of the Governor's call."); Op. Att'y Gen. No. 86080 (Dec. 8, 1986) ("given the restrictive view which our Supreme Court has taken in interpreting the scope of the Governor's call during special sessions. . .").

The Call

With this background, we must next examine the actual language of the Governor's call. The call issued by the Governor on October 23, 2001, states as follows:

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Constitution of the State of Nebraska, I, Mike Johanns, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on October 25, 2001, at 3 p.m. for the purpose of considering and enacting legislation on only the following subjects:

1. To reduce or eliminate appropriations and reappropriations approved by the 97th Legislature;
2. To lapse cash funds to the State General Fund;
3. To eliminate or reduce certain transfers from the State General Fund;
4. To increase or make certain transfers to the State General Fund;
5. To appropriate funds for the necessary expenses of the extraordinary session herein called;
6. To adopt statutory modifications to change the designation of certain portions of the Documentary Stamp Tax from the Affordable Housing Trust Fund to the State General Fund;
7. To adopt statutory modifications to expand the use of the Probation Cash Fund;

8. To adopt statutory modifications to eliminate a transfer from Fund 2262 - Nebraska Nursing Facility Conversion Cash Fund, and to authorize the State Treasurer to transfer the unobligated balance in Fund 2262 - Nebraska Nursing Facility Conversion Cash Fund to Fund 2260 - Department of Health and Human Services - Finance & Support Cash Fund;
9. To increase certain cash fund, revolving fund, and federal fund appropriations;
10. To modify intent language and earmarks accompanying appropriations approved by the 97th Legislature;
11. To adopt statutory modifications to eliminate a requirement that reorganization incentive payments be paid to school districts or systems that are the result of a consolidation or unification with an effective date after August 1, 2001;
12. To adopt statutory modifications to authorize the State Treasurer to transfer the balance of Fund 2133 - Attracting Excellence to Teaching Program Cash Fund to Fund 1000 - General Fund and to adopt statutory modifications to annually transfer \$2,700,000 from Fund 2149 - Education Innovation Fund to Fund 2133 - Attracting Excellence to Teaching Program Cash Fund;
13. To postpone the operative date for LB 433 of the 2001 Legislative Session from the tax year beginning January 1, 2001, to the tax year beginning January 1, 2003; and,
14. To adopt statutory modifications to authorize the State Treasurer to transfer \$5,846,593 from Fund 6264 - Nebraska Medicaid Intergovernmental Trust Fund to Fund 2130 - State Department of Education Cash Fund.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by presenting to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Great Seal of the State of Nebraska to be affixed this 23rd day of October in the year of the Lord Two Thousand One.

(Signed) Mike Johanns
Governor

Analysis of LB 6, LB 7 and LB 19

We now turn to the analysis of LB 6, LB 7 and LB 19 in light of the Governor's call and the legal principles discussed above. The Attorney General's Office has been called upon to issue opinions concerning the scope of the call for special legislative sessions on twenty-one previous occasions. Consequently, we are able to draw upon a considerable body of existing analysis. As was stated in Op. Att'y Gen. No. 136 (Oct. 23, 1985),

Initially, we believe it is appropriate to make some general

observations regarding the scope of the Governor's call. The proclamation calling the Legislature into Special Session does not deal with the state budget in general terms, but, rather, only with specific aspects of the budget, such as reductions in appropriations, a fund transfer, and certain specified means of revenue enhancement. In general, the scope of the call precludes the Legislature from expanding the session to consider and enact legislation concerning budgetary or taxing measures other than those specifically addressed in the call.

With these basic parameters in mind we must next examine the three legislative bills in question.

LB 6

LB 6 was introduced on October 25, 2001. It is "An Act relating to revenue and taxation; to amend section 77-27,188.01 . . . § 77-5408 . . . and sections 77-4106, 77-5531, and 77-5533. . . ; to change provisions dealing with funding for credits and refunds under certain incentive provisions. . ." (emphasis added). The bill changes provisions dealing with funding for credits for sales and use taxes paid under section 77-27,188.01 by providing that, "Credits used under this section shall be reimbursed to the General Fund from the Employment Expansion and Investment Incentive Fund." A similar amendment is made regarding the credits under section 77-4106.

The bill amends section 77-5408 by providing that the "Credits used under this section shall be reimbursed to the General Fund from the Rural Economic Opportunities Fund." It amends section 77-5531 by providing that "Wage benefit credits used under this section shall be reimbursed to the General Fund from the Invest Nebraska Fund." Likewise, it amends section 77-5533 to provide, "Investment tax credits used under this section shall be reimbursed to the General Fund from the Invest Nebraska Fund."

The bill requires the Legislative Fiscal Analyst, together with the Department of Revenue, to develop an estimate of the amount of credits and refunds expected to be claimed under the Employment and Investment Incentive Act, the Invest Nebraska Act, and the Rural Economic Opportunities Act during each biennium. It then provides for an appropriation to the Funds related to such acts, and calls for a deficit appropriation to be made based on actual credits and refunds made for each program during the biennium, if sufficient funds were not appropriated. Thus, the bill appears to be designed to quantify the amount of credits and refunds generated under the various business incentive laws.

None of the 14 items in the Governor's call pertain to the funding of credits and refunds under existing incentive provisions or to the quantification of the cost of credits and refunds under the various business incentive laws. It is true that item number four in the call is written in very broad terms ("To increase or make certain transfers to the State General Fund."), and that LB 6 does involve reimbursement to the General Fund

from various incentive funds. However, the bill goes well beyond transfers to the General Fund. Given the restrictive view expressed by the court in *Arrow Club*, we conclude LB 6 is not within the scope of the call. As was stated in Op. Att'y Gen. No. 135 (Oct. 24, 1985), "The Governor's call for the current special session does not deal with the budget in general, but only with specific facets of that budget. . . ."

LB 7

LB 7 was also introduced on October 25, 2001. It is an "Act relating to revenue and taxation; to amend sections 77-2101 to 77-2105, 772108, and 77-2113 . . . ; to change calculations relating to estate taxes and generation-skipping transfer taxes. . . ." (emphasis added). The bill partially decouples the Nebraska estate tax and generation-skipping transfer tax from the federal Internal Revenue Code.

None of the 14 items in the Governor's call pertain to estate taxes or generation-skipping transfer taxes. LB 7 is not germane to any item in the call under the *Arrow Club* standard, and the bill is, therefore, clearly outside the scope of the Governor's call.

LB 19

LB 19 was introduced on October 26, 2001. It is an "Act relating to cigarette tax; to amend § 77-2602 . . . to change distribution of tax proceeds. . . ." (emphasis added). The bill increases the amount of cigarette tax going to the Building Renewal Allocation Fund, and it decreases the amounts going to the Primary Class Development Fund and the City of Metropolitan Class Development Fund.

LB 19 bears some similarity to legislation considered in the most recent prior Attorney General's Opinion concerning the scope of a special session call. In Op. Att'y Gen. No. 92114 (Sept. 14, 1992) this office concluded that a bill which reduced the amount of cigarette tax revenues placed in the Municipal Infrastructure Redevelopment Fund (and placed the funds in the State's General Fund) was within the scope of Governor Nelson's call, as it fell within the scope of item number one of the call: "to reduce appropriations approved by the 92nd Legislature. . . ."

LB 19 reduces appropriations to two funds and increases an appropriation to the Building Renewal Allocation Fund (which we understand is a cash fund). Item number one of Governor Johann's call is to "reduce . . . appropriations approved by the 97th Legislature." Item number nine is to "Increase certain cash fund, revolving fund, and federal fund appropriations." It is arguable legislation such as LB 19 was not contemplated by the Governor's call, as the intended purpose of the special session is apparently to reduce a budget shortfall, rather than to change the distribution of tax proceeds. *See Arrow Club*, 177 Neb. at 689 ("In construing a call the words of any portion thereof must be interpreted not only as commonly and universally understood, but also as applicable to the

subject intended to be affected by legislation."). Nonetheless, given the broad language of the call (specifically, item numbers one and nine), the lack of general intent language, as well as the analysis set forth in Op. Att'y Gen. No. 92114, we cannot say LB 19 is outside the scope of the call.

Effect of Consideration or Enactment of Legislation Outside the Call

Finally, you have asked "what would be the likely outcome or effect if the Legislature attempted to consider or enact" the bills if they are found by a court to be outside the scope of the call. Although the Constitution states that "the Legislature shall enter upon no business except that for which they were called together," Neb. Const. art. IV, § 8, we believe only the Legislature, through its internal rules or the rulings of its presiding officers, has the ability to enforce this provision in terms of regulating the Legislature's agenda. Once legislation has been adopted, the Governor may veto it or refuse to sign it. If enacted into law, the matter then becomes one for judicial determination. This aspect of your question was previously addressed in Op. Att'y Gen. No. 136 (Oct. 23, 1985) as follows:

In *Arrow Club* . . . certain portions of a bill enacted by the 1963 Special Session, which the court concluded did not relate to a subject included in the proclamation calling the Legislature into Special Session, were held void as being in violation of Article IV, Section 8. Thus, legislation would be declared void by the court as being in violation of the Nebraska Constitution.

Id. at 6 (emphasis added).

Sincerely,
DON STENBERG
Attorney General
(Signed) Steve Grasz
Deputy Attorney General

cc: Clerk of the Legislature
3-125-14

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of November 2, 2001, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

American Communications Group, Inc.
Teamsters Local Union 554

Intermill, Mark
AARP

STANDING COMMITTEE REPORT
Health and Human Services/Appropriations

LEGISLATIVE BILL 8. Indefinitely postponed.

(Signed) Jim Jensen, Chairperson

(Signed) Roger R. Wehrbein, Chairperson

NOTICE OF COMMITTEE HEARING
General Affairs
 Room 1510

Monday, November 5, 2001

1:00 PM

Kam-Ching Leung - Nebraska Arts Council

Sharon Marvin - Nebraska Arts Council

Sharee Newman - Nebraska Arts Council

Cinda Orr - Nebraska Arts Council

Donna Woods - Nebraska Arts Council

Richard Coyne - Nebraska Liquor Control Commission

(Signed) Ray Janssen, Chairperson

GENERAL FILE

LEGISLATIVE BILL 2. Title read. Considered.

Advanced to E & R for review with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 4. Title read. Considered.

Advanced to E & R for review with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

EASE

The Legislature was at ease from 9:26 a.m. until 9:38 a.m.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Accountability and Disclosure Commission
 John Bergmeyer

State Emergency Response Commission
Allen Grell
Mark Reimers

VOTE: Aye: Senators Aguilar, Burling, McDonald, Schimek, and Smith.
Nay: None. Absent: Senators Brown, Quandahl, and Vrtiska.

(Signed) DiAnna R. Schimek, Chairperson

Transportation and Telecommunications

The Transportation and Telecommunications Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

State Highway Commission
Ronald W. Books
Jerome A. Fagerland
Richard S. Reiser

VOTE: Aye: Senators Baker, Dw. Pedersen, Byars, Brown, and Bromm.
Nay: None. Absent: Senators Jones, Robak, and Hudkins.

(Signed) Curt Bromm, Chairperson

EASE

The Legislature was at ease from 9:41 a.m. until 9:48 a.m.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 15. Placed on General File.

(Signed) Kermit A. Brashear, Chairperson

Appropriations

LEGISLATIVE BILL 19. Indefinitely postponed.

LEGISLATIVE BILL 20. Indefinitely postponed.

(Signed) Roger R. Wehrbein, Chairperson

Education

LEGISLATIVE BILL 16. Indefinitely postponed.

LEGISLATIVE BILL 18. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

EASE

The Legislature was at ease from 9:54 a.m. until 11:19 a.m.

SENATOR CUDABACK PRESIDING**STANDING COMMITTEE REPORTS****Appropriations**

LEGISLATIVE BILL 1. Placed on General File as amended.
(Standing Committee amendment, AM9018, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

LEGISLATIVE BILL 3. Placed on General File as amended.
(Standing Committee amendment, AM9019, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

(Signed) Roger R. Wehrbein, Chairperson

Education

LEGISLATIVE BILL 14. Placed on General File as amended.
Standing Committee amendment to LB 14:
AM9011

- 1 1. Strike original section 3.
- 2 2. On page 7, line 7, after "base" insert "fiscal"; in
- 3 line 24 strike the new matter and reinstate the stricken "and" and
- 4 after the stricken "million" insert "one million six hundred
- 5 sixteen thousand three hundred fifty-four"; and reinstate the
- 6 stricken matter beginning with "dollars" in line 24 through "year"
- 7 in line 25.
- 8 3. On page 8, strike beginning with "payments" in line 6
- 9 through the comma in line 13 and show as stricken; in line 13
- 10 strike "for the base fiscal year" and show as stricken; in lines
- 11 22, 24, 25, and 27 before "incentive" insert "base fiscal year"; in
- 12 lines 22 and 25 and 26 strike "to school districts" and show as
- 13 stricken; in line 24 strike "under this subsection" and show as
- 14 stricken; in line 27 after "year" insert "pursuant to subsection
- 15 (5) of this section"; and in line 28 after "No" insert "base fiscal
- 16 year".
- 17 4. On page 9, line 27, after "If" insert "before August
- 18 2, 2001".
- 19 5. On page 10, line 3, after "base" insert "fiscal".

LEGISLATIVE BILL 17. Placed on General File as amended.
Standing Committee amendment to LB 17:

AM9010

1 1. Strike original sections 1, 2, and 4 and insert the
2 following new sections:
3 "Section 1. Section 9-812, Revised Statutes Supplement,
4 2001, is amended to read:
5 9-812. (1) All money received from the operation of
6 lottery games conducted pursuant to the State Lottery Act in
7 Nebraska shall be credited to the State Lottery Operation Trust
8 Fund, which fund is hereby created. All payments of expenses of
9 the operation of the lottery games shall be made from the State
10 Lottery Operation Cash Fund. In accordance with legislative
11 appropriations, money for payments for expenses of the division
12 shall be transferred from the State Lottery Operation Trust Fund to
13 the State Lottery Operation Cash Fund, which fund is hereby
14 created. All money necessary for the payment of lottery prizes
15 shall be transferred from the State Lottery Operation Trust Fund to
16 the State Lottery Prize Trust Fund, which fund is hereby created.
17 The amount used for the payment of lottery prizes shall not be less
18 than forty percent of the dollar amount of the lottery tickets
19 which have been sold. At least twenty-five percent of the dollar
20 amount of the lottery tickets which have been sold on an annualized
21 basis shall be transferred from the State Lottery Operation Trust
22 Fund to the Education Innovation Fund, the Nebraska Environmental
23 Trust Fund, and the Compulsive Gamblers Assistance Fund. Of the
24 money available to be transferred to the Education Innovation Fund,
1 the Nebraska Environmental Trust Fund, and the Compulsive Gamblers
2 Assistance Fund, the first five hundred thousand dollars shall be
3 transferred to the Compulsive Gamblers Assistance Fund to be used
4 as provided in sections 83-162.01 to 83-162.04. Thereafter,
5 forty-nine and one-half percent of the money remaining after the
6 payment of prizes and operating expenses and the initial transfer
7 to the Compulsive Gamblers Assistance Fund shall be transferred to
8 the Education Innovation Fund. Forty-nine and one-half percent of
9 the money remaining after the payment of prizes and operating
10 expenses and the initial transfer to the Compulsive Gamblers
11 Assistance Fund shall be transferred to the Nebraska Environmental
12 Trust Fund to be used as provided in the Nebraska Environmental
13 Trust Act. One percent of the money remaining after the payment of
14 prizes and operating expenses and the initial transfer to the
15 Compulsive Gamblers Assistance Fund shall be transferred to the
16 Compulsive Gamblers Assistance Fund to be used as provided in
17 sections 83-162.01 to 83-162.04.
18 (2) The Education Innovation Fund is hereby created. At
19 least seventy-five percent of the lottery proceeds allocated to the
20 Education Innovation Fund shall be available for disbursement. For
21 each fiscal year except fiscal years 2001-02 and 2002-03, the
22 Education Innovation Fund shall be allocated in the following
23 manner: Up to ten percent to fund the mentor teacher program
24 pursuant to the Quality Education Accountability Act; up to seventy

25 percent as quality education incentives pursuant to the act; and up
26 to twenty percent of the fund shall be allocated by the Governor.
27 For fiscal years 2001-02 and 2002-03, the Education Innovation Fund
1 shall be allocated in the following manner by the Excellence in
2 Education Council: Up to ~~ten percent to fund the mentor teacher~~
3 ~~program pursuant to the Quality Education Accountability Act; up to~~
4 ~~seventy percent as quality education incentives pursuant to the~~
5 ~~act; up to twenty percent, but not to exceed one million five~~
6 ~~hundred thousand dollars per fiscal year, as a distance education~~
7 ~~network completion grant pursuant to section 79-1328; and any~~
8 ~~amount of the twenty percent that would have been allocated to~~
9 ~~distance education network completion grants that is in excess of~~
10 ~~the one million five hundred thousand dollar maximum that is~~
11 ~~authorized for distance education network completion grants shall~~
12 ~~be allocated by the Governor the remainder to the General Fund.~~
13 Allocations by the Governor shall be through incentive grants to
14 encourage the development of strategic school improvement plans by
15 school districts for accomplishing high performance learning and to
16 encourage schools to establish innovations in programs or practices
17 that result in restructuring of school organization, school
18 management, and instructional programs which bring about
19 improvement in the quality of education. Such incentive grants
20 allocated by the Governor are intended to provide selected school
21 districts, teachers or groups of teachers, nonprofit educational
22 organizations, educational service units, or cooperatives funding
23 for the allowable costs of implementing pilot projects and model
24 programs.

25 From the funds allocated by the Governor, minigrants
26 shall be available to school districts to support the development
27 of strategic school improvement plans which shall include
1 statements of purposes and goals for the districts. The plans
2 shall also include the specific statements of improvement or
3 strategic initiatives designed to improve quality learning for
4 every student.

5 In addition to the minigrants granted for the development
6 of strategic school improvement plans, school districts with annual
7 budget expenditures of three hundred fifty thousand dollars or less
8 are eligible for minigrants from the funds allocated by the
9 Governor for the purposes allowed in subdivisions (2)(a) through
10 (q) of this section. The amount of this type of minigrant shall
11 not exceed five thousand dollars. The school district shall
12 present a curriculum support plan with its application for the
13 grant. The curriculum support plan must show how the district is
14 working to achieve one or more of the allowed purposes and how the
15 grant will be used to directly advance the plan to achieve one or
16 more of these purposes. The plan must be signed by the school
17 administrator and a school board representative. The application
18 for the grant shall be brief. The Excellence in Education Council
19 shall select the recipients of this type of minigrant and shall

20 administer such minigrants.

21 From the funds allocated by the Governor, major
22 competitive grants shall be available to support innovative
23 programs which are directly related to the strategic school
24 improvement plans. The development of a strategic school
25 improvement plan by a school district shall be required before a
26 grant is awarded. Annual reports shall be made by program
27 recipients documenting the effectiveness of the program in

1 improving the quality of education as designed in the strategic
2 school improvement plans. Special consideration shall be given to
3 plans which contain public or private matching funds and
4 cooperative agreements, including agreements for in-kind services.
5 Purposes for which such major competitive grants would be offered
6 shall include:

- 7 (a) Professional staff development programs to provide
8 funds for teacher and administrator training and continuing
9 education to upgrade teaching and administrative skills;
- 10 (b) The development of strategic school improvement plans
11 by school districts;
- 12 (c) Educational technology assistance to public schools
13 for the purchase and operation of computers, telecommunications
14 equipment and services, and other forms of technological innovation
15 which may enhance classroom teaching, instructional management, and
16 districtwide administration. Telecommunications equipment,
17 services, and forms of technical innovation shall be approved only
18 after review by the technical panel created in section 86-1511;
- 19 (d) An educational accountability program to develop an
20 educational indicators system to measure the performance and
21 outcomes of public schools and to ensure efficiency in operations;
- 22 (e) Alternative programs for students, including
23 underrepresented groups, at-risk students, and dropouts;
- 24 (f) Programs that demonstrate improvement of student
25 performance against valid national and international achievement
26 standards;
- 27 (g) Early childhood and parent education which emphasizes
1 child development;
- 2 (h) Programs using decisionmaking models that increase
3 involvement of parents, teachers, and students in school
4 management;
- 5 (i) Increased involvement of the community in order to
6 achieve increased confidence in and satisfaction with its schools;
- 7 (j) Development of magnet or model programs designed to
8 facilitate desegregation;
- 9 (k) Programs that address family and social issues
10 impairing the learning productivity of students;
- 11 (l) Programs enhancing critical and higher-order thinking
12 capabilities;
- 13 (m) Programs which produce the quality of education
14 necessary to guarantee a competitive work force;

- 15 (n) Programs designed to increase productivity of staff
16 and students through innovative use of time;
- 17 (o) Training programs designed to benefit teachers at all
18 levels of education by increasing their ability to work with
19 educational technology in the classroom;
- 20 (p) Approved accelerated or differentiated curriculum
21 programs under sections 79-1106 to 79-1108.03; and
- 22 (q) Programs for children from birth to age twenty-one
23 years with disabilities receiving special education under the
24 Special Education Act and children from birth to age twenty-one
25 years needing support services as defined in section 79-1125.01,
26 which programs demonstrate improved outcomes for children from
27 birth to age twenty-one years through emphasis on prevention and
1 collaborative planning.
- 2 The Governor shall establish the Excellence in Education
3 Council. The Governor shall appoint eleven members to the council
4 including representatives of educational organizations,
5 postsecondary educational institutions, the business community, and
6 the general public, members of school boards and parent education
7 associations, school administrators, and at least four teachers who
8 are engaged in classroom teaching. The State Department of
9 Education shall provide staff support for the council to administer
10 the Education Innovation Fund, including the Quality Education
11 Accountability Act. The council shall have the following powers
12 and duties:
- 13 (i) In consultation with the department, develop and
14 publish criteria for the awarding of incentive grants allocated by
15 the Governor for programs pursuant to this subsection, including
16 minigrants;
- 17 (ii) Provide recommendations to the Governor regarding
18 the selection of projects to be funded and the distribution and
19 duration of project funding;
- 20 (iii) Establish standards, formats, procedures, and
21 timelines for the successful implementation of approved programs
22 funded by incentive grants allocated by the Governor from the
23 Education Innovation Fund;
- 24 (iv) Assist school districts in determining the
25 effectiveness of the innovations in programs and practices and
26 measure the subsequent degree of improvement in the quality of
27 education;
- 1 (v) Consider the reasonable distribution of funds across
2 the state and all classes of school districts;
- 3 (vi) Carry out its duties pursuant to the Quality
4 Education Accountability Act; and
- 5 (vii) Provide annual reports to the Governor concerning
6 programs funded by the fund. Each report shall include the number
7 of applicants and approved applicants, an overview of the various
8 programs, objectives, and anticipated outcomes, and detailed
9 reports of the cost of each program.

10 To assist the council in carrying out its duties, the
11 State Board of Education shall, in consultation with the council,
12 adopt and promulgate rules and regulations establishing criteria,
13 standards, and procedures regarding the selection and
14 administration of programs funded from the Education Innovation
15 Fund, including the Quality Education Accountability Act.

16 (3) Recipients of incentive grants allocated by the
17 Governor from the Education Innovation Fund shall be required to
18 provide, upon request, such data relating to the funded programs
19 and initiatives as the Governor deems necessary.

20 (4) Any money in the State Lottery Operation Trust Fund,
21 the State Lottery Operation Cash Fund, the State Lottery Prize
22 Trust Fund, or the Education Innovation Fund available for
23 investment shall be invested by the state investment officer
24 pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act.

26 (5) Unclaimed prize money on a winning lottery ticket
27 shall be retained for a period of time prescribed by rules and
1 regulations. If no claim is made within such period, the prize
2 money shall be used at the discretion of the Tax Commissioner for
3 any of the purposes prescribed in this section.

4 Sec. 2. Section 79-1328, Revised Statutes Supplement,
5 2001, is amended to read:

6 79-1328. (1) For fiscal years 2001-02 and 2002-03, the
7 Excellence in Education Council shall grant up to ~~twenty percent of~~
8 ~~the Education Innovation Fund, not to exceed~~ one million five
9 hundred thousand dollars per fiscal year, to a grantee for a
10 distance education network completion grant. The distance
11 education network completion grant shall fund engineering,
12 equipment, and installation charges for two-way interactive
13 distance education capacity for public high school buildings that
14 do not currently have such capacity. The grant application shall:

15 (a) Designate the State Department of Education as the
16 fiscal agent for the grant;

17 (b) Specify criteria for determining the public high
18 school buildings for which the grant will fund engineering,
19 equipment, and installation charges;

20 (c) Specify criteria for determining the engineering,
21 equipment, and installation charges which the grant will fund;

22 (d) Specify the technique for prorating funding and
23 collecting funds from districts if the charges for engineering,
24 equipment, and installation for the public high school buildings
25 for which grant funds are used exceed the grant funds available;

26 (e) Specify the procedure for assuring that all projects
27 meet the standards of the technical panel created in section
1 86-1511, including periodic reviews of projects by the technical
2 panel;

3 (f) Specify the timeline for completing a statewide
4 two-way interactive distance education network that includes all

5 participating public high schools; and
 6 (g) Specify that any equipment obtained through a grant
 7 is the property of the school district and not the department.
 8 (2) For a public high school to participate in the grant,
 9 the school district must apply to the department as the fiscal
 10 agent on a form prescribed by the department on or before a date
 11 established by the department. The application shall require
 12 evidence that the school district has made a commitment to be part
 13 of a distance education consortium and that the distance education
 14 consortium has accepted the district's commitment. The application
 15 shall also require the applicant district to list the classes that
 16 the district anticipates accessing from the consortium or a
 17 community college and any classes that the district anticipates
 18 that it will offer to other districts in the consortium through
 19 distance education.
 20 (3) The department as the fiscal agent may use up to
 21 twenty-five thousand dollars per fiscal year of the grant funds to
 22 fund a project manager."
 23 2. On page 11, line 20, strike "79-1018" and insert
 24 "79-1328".
 25 3. Renumber the remaining sections accordingly.

(Signed) Ron Raikes, Chairperson

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 2. Placed on Select File.
LEGISLATIVE BILL 4. Placed on Select File.

(Signed) Philip Erdman, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Dw. Pedersen asked unanimous consent to have his name added as cointroducer to LB 20. No objections. So ordered.

VISITORS

Visitor to the Chamber was BreAnn Ferris-Rainey from Omaha.

ADJOURNMENT

At 11:21 a.m., on a motion by Speaker Kristensen, the Legislature adjourned until 10:00 a.m., Monday, November 5, 2001.

Patrick J. O'Donnell
 Clerk of the Legislature

SIXTH DAY - NOVEMBER 5, 2001
LEGISLATIVE JOURNAL
NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION

SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, November 5, 2001

PRAYER

The prayer was offered by Senator McDonald.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Speaker Kristensen presiding.

The roll was called and all members were present except Senators Dw. Pedersen and Schimek who were excused; and Senators Brashear, Hartnett, and Landis who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifth day was approved.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 1 and 2 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 1 and 2.

GENERAL FILE

LEGISLATIVE BILL 3. Title read. Considered.

The Standing Committee amendment, AM9019, printed separately and referred to on page 66, was considered.

Senator Bourne offered the following amendment to the Standing Committee amendment:

AM9023

(Amendments to Standing Committee amendments, AM9019)

- 1 1. Strike sections 5, 10, and 11.
- 2 2. On page 10, line 8; page 12, lines 26 and 27; and
- 3 page 25, lines 12 and 13, strike "operative date of this section"
- 4 and insert "effective date of this act".
- 5 3. Renumber the remaining sections accordingly.

Senator Chambers requested a record vote on the Bourne amendment.

Voting in the affirmative, 6:

Bourne	Chambers	Connealy	Robak	Smith
Suttle				

Voting in the negative, 34:

Aguilar	Baker	Beutler	Bromm	Bruning
Burling	Byars	Cudaback	Cunningham	Dierks
Engel	Erdman	Foley	Hilgert	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Landis	McDonald	Pederson, D.	Price	Quandahl
Raikes	Redfield	Schrock	Stuhr	Thompson
Tyson	Vrtiska	Wehrbein	Wickersham	

Present and not voting, 5:

Brown	Coordsen	Kruse	Maxwell	Preister
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Excused and not voting, 4:

Brashear	Hartnett	Pedersen, Dw.	Schimek
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The Bourne amendment lost with 6 ayes, 34 nays, 5 present and not voting, and 4 excused and not voting.

SENATOR CUDABACK PRESIDING

Senators Raikes, Wickersham, Stuhr, Price, and Coordsen offered the following amendment to the Standing Committee amendment:

AM9025

(Amendments to Standing Committee amendments, AM9019)

- 1 1. On page 2, line 24, strike "seventy", show as
- 2 stricken, and insert "sixty"; in line 25 after the semicolon insert
- 3 "up to twenty percent to the Attracting Excellence to Teaching
- 4 Program Cash Fund to fund the Attracting Excellence to Teaching
- 5 Program Act"; and in line 26 strike "twenty", show as stricken, and
- 6 insert "ten".
- 7 2. On page 12, line 18, after "Legislature" insert "

8 transfers pursuant to section 9-812,"; and in line 24 strike "one
9 million three hundred fifty thousand dollars of".

Pending.

NOTICE OF COMMITTEE HEARING
Nebraska Retirement Systems
Room 1510

Tuesday, November 6, 2001
W. Don Nelson - Nebraska Investment Council

8:45 AM

(Signed) Jon Bruning, Chairperson

VISITORS

Visitor to the Chamber was Senator Smith's grandmother, Birdeen Zier, from Gering.

RECESS

At 11:57 a.m., on a motion by Speaker Kristensen, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Kristensen presiding.

ROLL CALL

The roll was called and all members were present except Senators Dw. Pedersen and Schimek who were excused; and Senators Dierks, Foley, Hartnett, Landis, and Suttle who were excused until they arrive.

RESOLUTION

LEGISLATIVE RESOLUTION 3. Introduced by Smith, 48.

WHEREAS, the Gering High School girls' golf team won the 2001 state Class B championship; and

WHEREAS, the team consists of seniors Jessica Nemnich, Kayla Patterson, and Mandi Schlaepfer, junior Maeghann McKay, and sophomore Jessica Propp and Coach Mick Hartwig; and

WHEREAS, two members of the team, golfers Mandi Schlaepfer and Jessica Nemnich, placed first and fourth, respectively, in the state tournament; and

WHEREAS, the coach and the members of the 2001 Gering High School girls' golf team exemplify dedication, discipline, and perseverance through talent and hard work.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature recognizes and congratulates the members of the 2001 Gering High School girls' golf team and Coach Mick Hartwig for their outstanding accomplishments.
2. That a copy of this resolution be sent to the 2001 Gering High School girls' golf team and Coach Mick Hartwig.

Laid over.

GENERAL FILE

LEGISLATIVE BILL 3. The Raikes et al. pending amendment, AM9025, found on page 74, to the Standing Committee amendment, was renewed.

Senator Beutler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 1 nay, and 20 not voting.

Senator Suttle moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Raikes requested a roll call vote on the Raikes et al. amendment.

Voting in the affirmative, 35:

Aguilar	Baker	Bourne	Brashear	Brown
Bruning	Burling	Byars	Chambers	Connealy
Coordsen	Cunningham	Dierks	Erdman	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Landis	McDonald	Preister	Price	Quandahl
Raikes	Redfield	Robak	Schrock	Smith
Stuhr	Suttle	Tyson	Vrtiska	Wickersham

Voting in the negative, 10:

Bromm	Cudaback	Engel	Foley	Hilgert
Kruse	Maxwell	Pederson, D.	Thompson	Wehrbein

Present and not voting, 1:

Beutler

Excused and not voting, 3:

Hartnett Pedersen, Dw. Schimek

The Raikes et al. amendment was adopted with 35 ayes, 10 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Robak asked unanimous consent to be excused until she returns. No objections. So ordered.

Senator Landis offered the following amendment to the Standing Committee amendment:

FA790

Amend AM9019 by striking section 14:

Strike the emergency clause

Senator Landis withdrew his amendment.

The Standing Committee amendment, AM9019, printed separately and referred to on page 66 and considered on page 73, as amended, was renewed.

Senator Dierks asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment, as amended, was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Senator Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

Senators Price and Preister asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1. Title read. Considered.

The Standing Committee amendment, AM9018, printed separately and referred to on page 66, was considered.

Senators Raikes, Wickersham, Stuhr, Price, and Coordsen offered the following amendment to the Standing Committee amendment:

AM9026

(Amendments to Standing Committee amendments, AM9018)

1 1. On page 9, strike line 23 and insert "GENERAL FUND
2 806,904,456 830,326,442"; and strike line 25 and insert "CASH
3 FUND 5,378,968 5,388,244".

4 2. On page 10, strike line 2 and insert "PROGRAM TOTAL
5 982,524,432 1,007,734,492"; in line 6 strike "\$5,664,926" and
6 insert "\$4,314,926"; and in line 9 strike "\$816,694,709" and insert
7 "\$820,744,709" and strike "\$7,014,926", show as stricken, and
8 insert "\$4,314,926".

- 9 3. On page 11, line 6, strike "\$146,164,827" and insert
 10 "\$150,214,827"; and strike the new matter in lines 8 through 12.
 11 4. On page 12, line 24, strike "\$1,350,000" and insert
 12 "-0-"; and in line 25 strike "\$2,700,000", show as stricken, and
 13 insert "\$-0-".
 14 5. Strike amendments 4 and 5.
 15 6. Renumber the remaining amendments accordingly.

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Raikes moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Raikes et al. amendment was adopted with 29 ayes, 9 nays, 3 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

Senators Coordsen, Brashear, and Kristensen asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM9030

(Amendments to Standing Committee amendments, AM9018)

- 1 1. On page 1, line 3, after "137," insert "139,".
- 2 2. Strike sections 123 and 124.
- 3 3. On page 38, line 3, strike "213, "; and in line 4
- 4 strike "214," and "227,".
- 5 4. Renumber the remaining sections accordingly.

Senator Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 7:

Byars	Chambers	Connealy	Kruse	Maxwell
Robak	Suttle			

Voting in the negative, 23:

Aguilar	Baker	Bromm	Bruning	Burling
Cudaback	Cunningham	Engel	Erdman	Foley
Hudkins	Janssen	Jones	McDonald	Pederson, D.
Quandahl	Redfield	Schrock	Smith	Thompson
Tyson	Wehrbein	Wickersham		

Present and not voting, 8:

Bourne	Brown	Hilgert	Jensen	Kremer
Raikes	Stuhr	Vrtiska		

Excused and not voting, 11:

Beutler	Brashear	Coordsen	Dierks	Hartnett
Kristensen	Landis	Pedersen, Dw.	Preister	Price
Schimek				

The Chambers amendment lost with 7 ayes, 23 nays, 8 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA791

Amend AM9018

Page 1, line 2, strike "106"

Senator Chambers moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 14:

Aguilar	Bromm	Brown	Chambers	Cunningham
Hudkins	Janssen	Jensen	Jones	Kristensen
Raikes	Redfield	Robak	Wickersham	

Voting in the negative, 21:

Baker	Bourne	Bruning	Byars	Connealy
Engel	Erdman	Foley	Hilgert	Kremer
Kruse	Maxwell	McDonald	Pederson, D.	Quandahl
Schrock	Smith	Stuhr	Thompson	Tyson
Wehrbein				

Present and not voting, 4:

Burling Cudaback Suttle Vrtiska

Excused and not voting, 10:

Beutler Brashear Coordsen Dierks Hartnett
Landis Pedersen, Dw. Preister Price Schimek

The Chambers amendment lost with 14 ayes, 21 nays, 4 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Senator Vrtiska asked unanimous consent to be excused. No objections. So ordered.

Senator Chambers offered the following amendment to the Standing Committee amendment:

FA792

Amend AM9018:

Page 1, line 2, strike "103", "104", "106".

Senator Chambers moved to bracket LB 1 until November 12, 2001.

Senators Hudkins and Jones asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Chambers withdrew his motion to bracket.

Senator Chambers withdrew his pending amendment, FA792, found in this day's Journal.

The Standing Committee amendment, AM9018, as amended, was adopted with 31 ayes, 1 nay, 7 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 35 ayes, 1 nay, 4 present and not voting, and 9 excused and not voting.

EASE

The Legislature was at ease from 5:28 p.m. until 5:33 p.m.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 3. Placed on Select File as amended.

E & R amendment to LB 3:

AM7133

- 1 1. In the Standing Committee amendment, AM9019, on page 2 12, line 25, strike "effective" and insert "operative" and strike

3 "act" and insert "section".

4 2. On page 1, line 4, strike "and" and before "Revised"
5 insert "and 79-1328,"; in line 6 after the semicolon insert "to
6 eliminate a tax credit and a fund;"; and in line 7 after the second
7 semicolon insert "to outright repeal sections 77-5301 to 77-5304,
8 Revised Statutes Supplement, 2000;".

LEGISLATIVE BILL 1. Placed on Select File as amended.

E & R amendment to LB 1:

AM7132

1 1. In the Standing Committee amendments, AM9018:

2 a. Renumber section 80 as section 79;

3 b. On page 2, line 18, after "contracts" insert an
4 underscored comma; and in line 24 strike "state's" and insert
5 "state";

6 c. On page 4, line 26, strike "FY2003-04" and insert
7 "FUTURE";

8 d. On page 6, line 10, after "contracts" insert an
9 underscored comma;

10 e. On page 33, line 6, strike "7,947,258" and insert
11 "7,944,433"; and

12 f. On page 37, line 25, strike "38, 40,".

13 2. On page 1, strike beginning with "Laws" in line 1
14 through line 16 and insert "Laws 2001, LB 24A, section 1; Laws
15 2001, LB 152A, section 1; Laws 2001, LB 244A, section 1; Laws 2001,
16 LB 313A, section 1; Laws 2001, LB 329A, section 1; Laws 2001, LB
17 335A, section 1; Laws 2001, LB 468A, section 2; Laws 2001, LB 542,
18 sections 9, 34, 38, 40, 43, 44, 48, 51, and 57; Laws 2001, LB 543,
19 sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 24, 25,
20 26, 29, 31, 33, 34, 37, 38, 39, 40, 44, 48, 49, 51, 53, 57, 58, 59,
21 68, 69, 70, 71, 72, 73, 75, 80, 81, 82, 83, 84, 95, 96, 97, 102,
22 103, 105, 109, 110, 113, 118, 123, 124, 125, 127, 128, 130, 131,
23 136, 137, 142, 143, 144, 145, 146, 147, 149, 150, 151, 154, 159,
24 161, 162, 163, 168, 170, 171, 172, 177, 189, 190, 191, 192, 193,
1 197, 198, 199, 200, 201, 202, 203, 204, 207, 209, 210, 213, 214,
2 215, 216, 217, 219, 220, 221, 222, 223, 227, 228, 229, 230, 231,
3 232, 233, 234, 235, 236, 237, 239, 241, 242, 244, 247, 252, 255,
4 258, 259, 261, 262, and 268; Laws 2001, LB 640A, sections 1, 2, 3,
5 and 4; Laws 2001, LB 659A, section 1; Laws 2001, LB 666A, section
6 1; and Laws 2001, LB 772A, section 1; to define terms; to change
7 appropriations as prescribed; to change transfers; to repeal the
8 original sections; and to declare an emergency."

9 3. On page 2, strike lines 1 through 8.

10 4. On page 3, line 13, strike "and state aid" and insert
11 "state aid, and capital construction".

12 5. On page 25, line 11, strike "FY2002-38" and insert
13 "FY2002-03".

14 6. On page 64, line 25, strike "416.701" and insert
15 "416,701".

16 7. On page 123, line 24, strike the second "FY2001-02"
17 and insert "FY2002-03".

18 8. On page 124, line 18, strike "initiatives" and insert
19 "initiatives"; in line 20 after "FY2001-02" insert an underscored
20 comma; and in line 22 strike "for FY2002-03" and insert "; and for
21 FY2002-03".

22 9. On page 131, line 21, after the first "the" insert
23 "Department of".

(Signed) Philip Erdman, Chairperson

ADJOURNMENT

At 5:34 p.m., on a motion by Speaker Kristensen, the Legislature adjourned until 9:00 a.m., Tuesday, November 6, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTH DAY - NOVEMBER 6, 2001**LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION****SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, November 6, 2001

PRAYER

The prayer was offered by Senator Engel.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators McDonald and Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixth day was approved.

NOTICE OF COMMITTEE HEARINGS

Education
Room 1510

Tuesday, November 6, 2001

11:45 AM

Richard L. Powell - Board of Educational Lands and Funds

(Signed) Ron Raikes, Chairperson

Government, Military and Veterans Affairs
Room 1507

Wednesday, November 7, 2001

8:45 AM

Dana Miller - State Emergency Response Commission

(Signed) Adrian Smith, Vice Chairperson

STANDING COMMITTEE REPORTS
General Affairs

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Arts Council
Kam-Ching Leung
Sharon Marvin
Sharee Newman
Cinda Orr
Donna Woods

VOTE: Aye: Senators Burling, Cunningham, Erdman, Janssen, McDonald, Quandahl, Redfield, and Schrock. Nay: None. Absent: None.

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Liquor Control Commission
Richard Coyne

VOTE: Aye: Senators Burling, Cunningham, Erdman, Janssen, McDonald, Quandahl, Redfield, and Schrock. Nay: None. Absent: None.

(Signed) Ray Janssen, Chairperson

REPORTS

The following reports were received by the Legislature:

Arts Council, Nebraska

Nebraska Arts and Humanities Cash Fund Report

Investment Finance Authority, Nebraska

Single Family Housing Revenue Bonds Series 2000 EFG and General Obligation Bonds Series 2000 G.O.-11

Single Family Housing Revenue Bonds Series 2001 ABC and General Obligation Bonds Series 2001 G.O.-12

Policy Research Office, Governor's

Municipal Natural Gas Regulation Revolving Loan Fund for the quarter ending September 30, 2001

Property Assessment and Taxation

2000 Annual Report

Revenue, Nebraska Department of

Nebraska Lottery Annual Report

Roads, Department of

State Highway Commission Quarterly Report

SELECT FILE**LEGISLATIVE BILL 2.** Advanced to E & R for engrossment.**LEGISLATIVE BILL 4.** Advanced to E & R for engrossment.**LEGISLATIVE BILL 3.** E & R amendment, AM7133, found on page 80, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 1. E & R amendment, AM7132, found on page 81, was adopted.

Senator Bruning asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers offered the following amendment:
AM9031

- 1 1. Insert the following new sections:
- 2 "Sec. 102. Laws 2001, LB 543, section 166, is amended to
- 3 read:
- 4 Sec. 166. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
- 5 POSTSECONDARY EDUCATION
- 6 Program No. 499 - State Scholarship Award Program
- 7
- 8

	FY2001-02	FY2002-03
9 <u>GENERAL FUND</u>	1,241,023	1,293,523
10 <u>GENERAL FUND</u>	<u>1,241,023</u>	<u>1,230,598</u>
11 <u>FEDERAL FUND est.</u>	80,376	80,376
12 <u>PROGRAM TOTAL</u>	1,321,399	1,373,899
13 <u>PROGRAM TOTAL</u>	<u>1,321,399</u>	<u>1,310,974</u>
- 14 All funds appropriated to this program are for state aid
- 15 and shall only be used for such purpose. The Coordinating
- 16 Commission for Postsecondary Education may contract, at no cost,
- 17 with financial aid offices in Nebraska institutions of
- 18 postsecondary education to disburse the funds to students.
- 19 Sec. 103. Laws 2001, LB 543, section 167, is amended to
- 20 read:
- 21 Sec. 167. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
- 22 POSTSECONDARY EDUCATION
- 23 Program No. 500 - Scholarship Assistance Program
- 24
- 25

	FY2001-02	FY2002-03
26 <u>GENERAL FUND</u>	2,044,988	2,097,488
27 <u>GENERAL FUND</u>	<u>2,044,988</u>	<u>2,034,563</u>
28 <u>PROGRAM TOTAL</u>	2,044,988	2,097,488
29 <u>PROGRAM TOTAL</u>	<u>2,044,988</u>	<u>2,034,563</u>

- 4 All funds appropriated to this program are for state aid
 5 and shall only be used for such purpose. The Coordinating
 6 Commission for Postsecondary Education may contract, at no cost,
 7 with financial aid offices in Nebraska institutions of
 8 postsecondary education to disburse the funds to students.
 9 Sec. 105. Laws 2001, LB 543, section 169, is amended to
 10 read:
 11 Sec. 169. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
 12 POSTSECONDARY EDUCATION
 13 Program No. 650 - Postsecondary Education Award Programs
- | | | | |
|----|---------------|-----------|-----------|
| 14 | | FY2001-02 | FY2002-03 |
| 15 | GENERAL FUND | 2,859,050 | 2,911,550 |
| 16 | GENERAL FUND | 2,859,050 | 2,824,203 |
| 17 | PROGRAM TOTAL | 2,859,050 | 2,911,550 |
| 18 | PROGRAM TOTAL | 2,859,050 | 2,824,203 |
- 19 All funds appropriated to this program are for state aid
 20 and shall only be used for such purpose. The Coordinating
 21 Commission for Postsecondary Education may contract, at no cost,
 22 with financial aid offices in Nebraska institutions of
 23 postsecondary education to disburse the funds to students."
 24 2. In the Standing Committee amendments, AM9018, on page
 25 38, line 2, after "163," insert "166, 167," and after "168," insert
 26 "169,".
 27 3. In the E & R amendments, AM7132, on page 1, line 24,
 1 after "163," insert "166, 167," and after "168," insert "169,".
 2 4. Renumber the remaining sections accordingly.

Senator Beutler requested a division of the question on the Chambers amendment.

The Chair sustained the division of the question.

The first Chambers amendment is as follows:

FA795

- 9 Sec. 105. Laws 2001, LB 543, section 169, is amended to
 10 read:
 11 Sec. 169. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
 12 POSTSECONDARY EDUCATION
 13 Program No. 650 - Postsecondary Education Award Programs
- | | | | |
|----|---------------|-----------|-----------|
| 14 | | FY2001-02 | FY2002-03 |
| 15 | GENERAL FUND | 2,859,050 | 2,911,550 |
| 16 | GENERAL FUND | 2,859,050 | 2,824,203 |
| 17 | PROGRAM TOTAL | 2,859,050 | 2,911,550 |
| 18 | PROGRAM TOTAL | 2,859,050 | 2,824,203 |
- 19 All funds appropriated to this program are for state aid
 20 and shall only be used for such purpose. The Coordinating
 21 Commission for Postsecondary Education may contract, at no cost,
 22 with financial aid offices in Nebraska institutions of
 23 postsecondary education to disburse the funds to students."

24 2. In the Standing Committee amendments, AM9018, on page
25 38, line 2, after "163," insert "166, 167," and after "168," insert
26 "169,".

27 3. In the E & R amendments, AM7132, on page 1, line 24,
1 after "163," insert "166, 167," and after "168," insert "169,".

2 4. Renumber the remaining sections accordingly.

SPEAKER KRISTENSEN PRESIDING

Senator Kruse asked unanimous consent to be excused. No objections. So ordered.

The first Chambers amendment was adopted with 25 ayes, 14 nays, 6 present and not voting, and 4 excused and not voting.

The second Chambers amendment is as follows:

FA796

1 1. Insert the following new sections:

2 "Sec. 102. Laws 2001, LB 543, section 166, is amended to
3 read:

4 Sec. 166. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
5 POSTSECONDARY EDUCATION

6 Program No. 499 - State Scholarship Award Program

7

	FY2001-02	FY2002-03
--	-----------	-----------

8 GENERAL FUND	<u>1,241,023</u>	<u>1,293,523</u>
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9 GENERAL FUND	<u>1,241,023</u>	<u>1,230,598</u>
----------------	------------------	------------------

10 FEDERAL FUND est.	80,376	80,376
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11 PROGRAM TOTAL	<u>1,321,399</u>	<u>1,373,899</u>
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12 PROGRAM TOTAL	<u>1,321,399</u>	<u>1,310,974</u>
------------------	------------------	------------------

13 All funds appropriated to this program are for state aid
14 and shall only be used for such purpose. The Coordinating
15 Commission for Postsecondary Education may contract, at no cost,
16 with financial aid offices in Nebraska institutions of
17 postsecondary education to disburse the funds to students.

18 Sec. 103. Laws 2001, LB 543, section 167, is amended to
19 read:

20 Sec. 167. AGENCY NO. 48 -- COORDINATING COMMISSION FOR
21 POSTSECONDARY EDUCATION

22 Program No. 500 - Scholarship Assistance Program

23

	FY2001-02	FY2002-03
--	-----------	-----------

24 GENERAL FUND	<u>2,044,988</u>	<u>2,097,488</u>
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1 GENERAL FUND	<u>2,044,988</u>	<u>2,034,563</u>
----------------	------------------	------------------

2 PROGRAM TOTAL	<u>2,044,988</u>	<u>2,097,488</u>
-----------------	------------------	------------------

3 PROGRAM TOTAL	<u>2,044,988</u>	<u>2,034,563</u>
-----------------	------------------	------------------

4 All funds appropriated to this program are for state aid
5 and shall only be used for such purpose. The Coordinating
6 Commission for Postsecondary Education may contract, at no cost,
7 with financial aid offices in Nebraska institutions of
8 postsecondary education to disburse the funds to students.

Senator Chambers moved for a call of the house. The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

Senator Thompson requested a record vote on the second Chambers amendment.

Voting in the affirmative, 25:

Brashear	Bromm	Burling	Byars	Chambers
Coordsen	Cudaback	Erdman	Hartnett	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Maxwell	Pederson, D.	Raikes	Redfield	Robak
Schimek	Stuhr	Vrtiska	Wehrbein	Wickersham

Voting in the negative, 19:

Aguilar	Baker	Beutler	Bourne	Bruning
Connealy	Cunningham	Dierks	Engel	Foley
Hilgert	McDonald	Preister	Price	Quandahl
Smith	Suttle	Thompson	Tyson	

Present and not voting, 2:

Brown Schrock

Absent and not voting, 1:

Landis

Excused and not voting, 2:

Kruse Pedersen, Dw.

The second Chambers amendment was adopted with 25 ayes, 19 nays, 2 present and not voting, 1 absent and not voting, and 2 excused and not voting.

Pending.

The Chair declared the call raised.

STANDING COMMITTEE REPORT Judiciary

The Judiciary Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Board of Parole
Esther Casmer

VOTE: Aye: Senators Baker, Bourne, Brashear, Chambers, Connealy, Dw. Pedersen, Robak, and Tyson. Nay: None. Absent: None.

(Signed) Kermit A. Brashear, Chairperson

RECESS

At 11:58 a.m., on a motion by Senator Byars, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Baker, Brown, Connealy, Foley, Kruse, Landis, Robak, and Wickersham who were excused until they arrive.

STANDING COMMITTEE REPORT
Nebraska Retirement Systems

The Nebraska Retirement Systems Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Investment Council
W. Don Nelson

VOTE: Aye: Senators Bourne, Bruning, Erdman, Stuhr, Wehrbein, and Wickersham. Nay: None. Absent: None.

(Signed) Jon Bruning, Chairperson

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: LBs 2, 3, and 4.

Enrollment and Review Change to LB 3

The following changes, required to be reported for publication in the Journal, have been made:

ER9096

1. In the Raikes amendment, AM9025, on page 1, line 5, an underscored

semicolon has been inserted after "Act".

(Signed) Philip Erdman, Chairperson

SELECT FILE

LEGISLATIVE BILL 1. Senators Suttle, Coordsen, and Byars offered the following amendment:

AM9029

(Amendments to Standing Committee amendments, AM9018)

1 1. Strike section 76 and insert the following new

2 section:

3 "Sec. 76. Laws 2001, LB 543, section 110, is amended to

4 read:

5 Sec. 110. AGENCY NO. 26 -- DEPARTMENT OF HEALTH AND HUMAN
6 SERVICES FINANCE AND SUPPORT

7 Program No. 348 - Medical Assistance

8		FY2001-02	FY2002-03
9	GENERAL FUND	410,331,209	451,953,954
10	<u>GENERAL FUND</u>	<u>401,034,616</u>	<u>440,578,767</u>
11	<u>CASH FUND</u>	<u>5,846,593</u>	<u>6,850,000</u>
12	FEDERAL FUND est.	702,679,408	751,231,470
13	<u>FEDERAL FUND est.</u>	<u>702,004,408</u>	<u>748,943,689</u>
14	<u>PROGRAM TOTAL</u>	<u>1,113,010,617</u>	<u>1,203,185,424</u>
15	<u>PROGRAM TOTAL</u>	<u>1,108,885,617</u>	<u>1,196,372,456</u>
16	<u>SALARY LIMIT</u>	<u>-0-</u>	<u>-0-</u>

17 There is included in the appropriation to this program

18 for FY2001-02 ~~\$410,331,209~~ \$401,034,616 General Funds, ~~\$5,846,593~~

19 Cash Funds, and ~~\$702,679,408~~ \$702,004,408 Federal Funds estimate

20 for state aid, which shall only be used for such purpose. There is

21 included in the appropriation to this program for FY2002-03

22 ~~\$451,953,954~~ \$440,578,767 General Funds, ~~\$6,850,000~~ Cash Funds, and

23 ~~\$751,231,470~~ \$748,943,689 Federal Funds estimate for state aid,

1 which shall only be used for such purpose.

2 There is included in the appropriation to this program

3 for FY2001-02 \$210,102 General Funds and \$426,569 Federal Funds

4 estimate to open ten additional beds for substance abuse treatment

5 for juvenile offenders at Hastings Regional Center. There is

6 included in the appropriation to this program for FY2002-03

7 \$210,102 General Funds and \$426,569 Federal Funds estimate to open

8 ten additional beds for substance abuse treatment for juvenile

9 offenders at Hastings Regional Center.

10 There is included in the appropriation to this program

11 for FY2001-02 \$0- General Funds and \$0- Federal Funds estimate to

12 ~~expand substance abuse treatment eligibility under the medicaid~~

13 ~~program. There is included in the appropriation to this program~~

14 for FY2002-03 ~~\$445,187~~ General Funds and ~~\$667,781~~ Federal Funds

15 ~~estimate to expand substance abuse treatment eligibility under the~~

16 ~~medicaid program.~~

17 It is the intent of the Legislature to continue the
 18 current reimbursement payments for individuals in nursing homes
 19 classified in levels 35 and 36."

Senators Bruning and Chambers asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER KRISTENSEN PRESIDING

Senator Tyson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

Senator Suttle moved for a call of the house. The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

Senator Suttle requested a record vote on the Suttle et al. amendment.

Voting in the affirmative, 16:

Bourne	Byars	Connealy	Coordsen	Cunningham
Hartnett	Hudkins	Janssen	Maxwell	McDonald
Preister	Price	Robak	Schimek	Schrock
Suttle				

Voting in the negative, 29:

Aguilar	Baker	Beutler	Brashear	Bromm
Brown	Bruning	Burling	Dierks	Engel
Erdman	Foley	Hilgert	Jensen	Jones
Kremer	Kristensen	Landis	Pederson, D.	Quandahl
Raikes	Redfield	Smith	Stuhr	Thompson
Tyson	Vrtiska	Wehrbein	Wickersham	

Present and not voting, 1:

Cudaback

Excused and not voting, 3:

Chambers Kruse Pedersen, Dw.

The Suttle et al. amendment lost with 16 ayes, 29 nays, 1 present and not voting, and 3 excused and not voting.

Advanced to E & R for engrossment.

The Chair declared the call raised.

EASE

The Legislature was at ease from 2:57 p.m. until 3:16 p.m.

**SELECT COMMITTEE REPORT
Enrollment and Review****Correctly Engrossed**

The following bill was correctly engrossed: LB 1.

(Signed) Philip Erdman, Chairperson

**STANDING COMMITTEE REPORT
Education**

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Board of Educational Lands and Funds
Richard L. Powell

VOTE: Aye: Senators Brashear, Coordsen, Price, Maxwell, Raikes, Stuhr, Suttle, and Wickersham. Nay: None. Absent: None.

(Signed) Ron Raikes, Chairperson

ADJOURNMENT

At 3:17 p.m., on a motion by Senator Erdman, the Legislature adjourned until 9:00 a.m., Wednesday, November 7, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

EIGHTH DAY - NOVEMBER 7, 2001**LEGISLATIVE JOURNAL****NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION****EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 7, 2001

PRAYER

The prayer was offered by Senator Price.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Kristensen presiding.

The roll was called and all members were present except Senators Brown, Dw. Pedersen, Quandahl, and Vrtiska who were excused; and Senators Beutler, Foley, Kruse, Preister, Robak, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventh day was approved.

**STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs**

The Government, Military and Veterans Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

State Emergency Response Commission
Dana Miller

VOTE: Aye: Senators Aguilar, Burling, McDonald, Schimek, and Smith.
Nay: None. Absent: Senators Brown, Quandahl, and Vrtiska.

(Signed) DiAnna R. Schimek, Chairperson

RESOLUTION**LEGISLATIVE RESOLUTION 4.** Introduced by Byars, 30.

WHEREAS, the Beatrice High School girls' softball team won the Class B State Softball Championship; and

WHEREAS, the coaching staff and the members of the Beatrice High School girls' softball team achieved this outstanding accomplishment through their hard work, dedication, and determination.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature recognizes and congratulates the Beatrice High School Lady O girls' softball team for its outstanding accomplishment.
2. That a copy of this resolution be sent to the Beatrice High School girls' softball team and Head Coach Robin Schainost.

Laid over.

MOTIONS - Approve Appointments

Senator Schrock moved the adoption of the report of the Natural Resources Committee for the following appointment found on page 47: Environmental Quality Council - Michael Bair.

Voting in the affirmative, 36:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Burling	Byars	Connealy	Cudaback
Cunningham	Dierks	Engel	Erdman	Hilgert
Hudkins	Janssen	Jensen	Jones	Kremer
Kristensen	Landis	Maxwell	McDonald	Pederson, D.
Price	Raikes	Redfield	Schimek	Schrock
Smith	Stuhr	Suttle	Thompson	Tyson
Wickersham				

Voting in the negative, 0.

Present and not voting, 3:

Chambers	Coordsen	Hartnett
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Excused and not voting, 10:

Beutler	Brown	Foley	Kruse	Pedersen, Dw.
Preister	Quandahl	Robak	Vrtiska	Wehrbein

The appointment was confirmed with 36 ayes, 0 nays, 3 present and not voting, and 10 excused and not voting.

Senator Jensen moved the adoption of the report of the Health and Human Services Committee for the following appointments found on page 50: Commission for the Deaf and Hard of Hearing - Barbara J. Woodhead; Health and Human Services System Partnership Council - Linda J. Heiden; and Rural Health Advisory Commission - Larry Eichelberger, David Isom, M.D., Pam List, Mary Ridder, Todd Stuckey, M.D., and Donald N. Taylor, D.D.S.

Senator Jensen requested a division of the question on the confirmation report.

The Chair sustained the division of the question.

The first division is as follows:

Senator Jensen moved the adoption of the report of the Health and Human Services Committee for the following appointment found on page 50: Commission for the Deaf and Hard of Hearing - Barbara J. Woodhead.

Voting in the affirmative, 35:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Burling	Byars	Connealy	Cudaback
Cunningham	Dierks	Engel	Erdman	Hilgert
Hudkins	Janssen	Jensen	Jones	Kremer
Kristensen	Landis	Maxwell	McDonald	Pederson, D.
Price	Raikes	Redfield	Schimek	Schrock
Smith	Stuhr	Suttle	Thompson	Tyson

Voting in the negative, 0.

Present and not voting, 4:

Chambers	Coordsen	Hartnett	Wickersham
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Excused and not voting, 10:

Beutler	Brown	Foley	Kruse	Pedersen, Dw.
Preister	Quandahl	Robak	Vrtiska	Wehrbein

The appointment was confirmed with 35 ayes, 0 nays, 4 present and not voting, and 10 excused and not voting.

The second division is as follows:

Senator Jensen moved the adoption of the report of the Health and Human Services Committee for the following appointment found on page 50: Health and Human Services System Partnership Council - Linda J. Heiden.

Voting in the affirmative, 33:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Burling	Byars	Connealy	Coordsen
Cudaback	Cunningham	Dierks	Engel	Erdman
Janssen	Jones	Kremer	Kristensen	Landis
Maxwell	McDonald	Pederson, D.	Price	Raikes
Redfield	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson		

Voting in the negative, 0.

Present and not voting, 6:

Chambers	Hartnett	Hilgert	Hudkins	Jensen
Wickersham				

Excused and not voting, 10:

Beutler	Brown	Foley	Kruse	Pedersen, Dw.
Preister	Quandahl	Robak	Vrtiska	Wehrbein

The appointment was confirmed with 33 ayes, 0 nays, 6 present and not voting, and 10 excused and not voting.

The third division is as follows:

Senator Jensen moved the adoption of the report of the Health and Human Services Committee for the following appointments found on page 50: Rural Health Advisory Commission - Larry Eichelberger, David Isom, M.D., Pam List, Mary Ridder, Todd Stuckey, M.D., and Donald N. Taylor, D.D.S.

Voting in the affirmative, 35:

Aguilar	Baker	Beutler	Bourne	Brashear
Bromm	Bruning	Burling	Byars	Connealy
Cudaback	Cunningham	Dierks	Engel	Erdman
Foley	Hilgert	Hudkins	Janssen	Jensen
Jones	Kremer	Kristensen	Landis	Maxwell
McDonald	Price	Raikes	Redfield	Schimek
Smith	Stuhr	Suttle	Thompson	Tyson

Voting in the negative, 0.

Present and not voting, 6:

Chambers	Coordsen	Hartnett	Pederson, D.	Schrock
Wickersham				

Excused and not voting, 8:

Brown	Kruse	Pedersen, Dw.	Preister	Quandahl
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Robak Vrtiska Wehrbein

The appointments were confirmed with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointments found on page 64: Accountability and Disclosure Commission - John Bergmeyer; and State Emergency Response Commission - Allen Grell and Mark Reimers.

Senator Schimek requested a division of the question on the confirmation report.

The Chair sustained the division of the question.

The first division is as follows:

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointment found on page 64: Accountability and Disclosure Commission - John Bergmeyer.

Voting in the affirmative, 33:

Aguilar	Baker	Bourne	Bruning	Burling
Byars	Connealy	Cudaback	Cunningham	Dierks
Engel	Erdman	Foley	Hilgert	Hudkins
Janssen	Jones	Kremer	Kristensen	Landis
Maxwell	McDonald	Pederson, D.	Price	Raikes
Redfield	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson		

Voting in the negative, 1:

Brashear

Present and not voting, 7:

Beutler	Bromm	Chambers	Coorsden	Hartnett
Jensen	Wickersham			

Excused and not voting, 8:

Brown	Kruse	Pedersen, Dw.	Preister	Quandahl
Robak	Vrtiska	Wehrbein		

The appointment was confirmed with 33 ayes, 1 nay, 7 present and not voting, and 8 excused and not voting.

The second division is as follows:

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointments found on page 64: State Emergency Response Commission - Allen Grell and Mark Reimers.

Voting in the affirmative, 37:

Aguilar	Baker	Beutler	Bourne	Brashear
Bromm	Bruning	Burling	Byars	Connealy
Cudaback	Cunningham	Dierks	Engel	Erdman
Foley	Hilgert	Hudkins	Janssen	Jensen
Jones	Kremer	Kristensen	Landis	Maxwell
McDonald	Pederson, D.	Price	Raikes	Redfield
Schimek	Schrock	Smith	Stuhr	Suttle
Thompson	Tyson			

Voting in the negative, 0.

Present and not voting, 4:

Chambers	Coordsen	Hartnett	Wickersham
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Excused and not voting, 8:

Brown	Kruse	Pedersen, Dw.	Preister	Quandahl
Robak	Vrtiska	Wehrbein		

The appointments were confirmed with 37 ayes, 0 nays, 4 present and not voting, and 8 excused and not voting.

Senator Bromm moved the adoption of the report of the Transportation and Telecommunications Committee for the following appointments found on page 65: State Highway Commission - Ronald W. Books, Jerome Fagerland, and Richard S. Reiser.

Voting in the affirmative, 35:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Burling	Byars	Connealy	Cudaback
Cunningham	Dierks	Engel	Erdman	Foley
Hartnett	Hilgert	Hudkins	Janssen	Jensen
Jones	Kremer	Kristensen	Landis	Maxwell
McDonald	Pederson, D.	Price	Raikes	Redfield
Schimek	Smith	Stuhr	Thompson	Tyson

Voting in the negative, 0.

Present and not voting, 6:

Beutler	Chambers	Coordsen	Schrock	Suttle
Wickersham				

Excused and not voting, 8:

Brown	Kruse	Pedersen, Dw.	Preister	Quandahl
Robak	Vrtiska	Wehrbein		

The appointments were confirmed with 35 ayes, 0 nays, 6 present and not voting, and 8 excused and not voting.

Senator Beutler asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Janssen moved the adoption of the report of the General Affairs Committee for the following appointment found on page 84: Nebraska Liquor Control Commission - Richard Coyne.

Voting in the affirmative, 35:

Aguilar	Baker	Bourne	Brashear	Bruning
Burling	Byars	Connealy	Cudaback	Cunningham
Dierks	Engel	Erdman	Hartnett	Hilgert
Hudkins	Janssen	Jensen	Jones	Kremer
Kristensen	Landis	Maxwell	McDonald	Pederson, D.
Price	Raikis	Redfield	Schimek	Schrock
Smith	Stuhr	Suttle	Thompson	Tyson

Voting in the negative, 0.

Present and not voting, 5:

Bromm	Chambers	Coordsen	Foley	Wickersham
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Excused and not voting, 9:

Beutler	Brown	Kruse	Pedersen, Dw.	Preister
Quandahl	Robak	Vrtiska	Wehrbein	

The appointment was confirmed with 35 ayes, 0 nays, 5 present and not voting, and 9 excused and not voting.

Senator Janssen moved the adoption of the report of the General Affairs Committee for the following appointments found on page 84: Nebraska Arts Council - Kam-Ching Leung, Sharon Marvin, Sharee Newman, Cinda Orr, and Donna Woods.

Voting in the affirmative, 39:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Burling	Byars	Chambers	Connealy
Cudaback	Cunningham	Dierks	Engel	Erdman
Foley	Hartnett	Hilgert	Hudkins	Janssen
Jensen	Jones	Kremer	Kristensen	Landis
Maxwell	McDonald	Pederson, D.	Price	Raikes
Redfield	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson	Wickersham	

Voting in the negative, 0.

Present and not voting, 1:

Coordsen

Excused and not voting, 9:

Beutler	Brown	Kruse	Pedersen, Dw.	Preister
Quandahl	Robak	Vrtiska	Wehrbein	

The appointments were confirmed with 39 ayes, 0 nays, 1 present and not voting, and 9 excused and not voting.

Senator Brashear moved the adoption of the report of the Judiciary Committee for the following appointment found on page 88: Board of Parole - Esther Casmer.

Voting in the affirmative, 40:

Aguilar	Baker	Bourne	Brashear	Bromm
Bruning	Byars	Chambers	Connealy	Coordsen
Cudaback	Cunningham	Dierks	Engel	Erdman
Foley	Hartnett	Hilgert	Hudkins	Janssen
Jensen	Jones	Kremer	Kristensen	Landis
Maxwell	McDonald	Pederson, D.	Price	Raikes
Redfield	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson	Wehrbein	Wickersham

Voting in the negative, 0.

Present and not voting, 1:

Burling

Excused and not voting, 8:

Beutler	Brown	Kruse	Pedersen, Dw.	Preister
Quandahl	Robak	Vrtiska		

The appointment was confirmed with 40 ayes, 0 nays, 1 present and not voting, and 8 excused and not voting.

Senator Bruning moved the adoption of the report of the Nebraska Retirement Systems Committee for the following appointment found on page 89: Nebraska Investment Council - W. Don Nelson.

Voting in the affirmative, 39:

Aguilar	Baker	Bourne	Brashear	Bruning
Burling	Byars	Chambers	Connealy	Coordsen
Cudaback	Cunningham	Dierks	Engel	Erdman
Hartnett	Hilgert	Hudkins	Janssen	Jensen
Jones	Kremer	Kristensen	Landis	Maxwell
McDonald	Pederson, D.	Price	Raikes	Redfield
Schimek	Schrock	Smith	Stuhr	Suttle
Thompson	Tyson	Wehrbein	Wickersham	

Voting in the negative, 0.

Present and not voting, 2:

Bromm Foley

Excused and not voting, 8:

Beutler	Brown	Kruse	Pedersen, Dw.	Preister
Quandahl	Robak	Vrtiska		

The appointment was confirmed with 39 ayes, 0 nays, 2 present and not voting, and 8 excused and not voting.

Senator Raikes moved the adoption of the report of the Education Committee for the following appointment found on page 92: Board of Educational Lands and Funds - Richard L. Powell.

Voting in the affirmative, 33:

Bourne	Bromm	Bruning	Byars	Connealy
Coordsen	Cudaback	Cunningham	Dierks	Engel
Erdman	Foley	Hartnett	Hilgert	Janssen
Jensen	Kristensen	Landis	Maxwell	McDonald
Pederson, D.	Price	Raikes	Redfield	Schimek
Schrock	Smith	Stuhr	Suttle	Thompson
Tyson	Wehrbein	Wickersham		

Voting in the negative, 0.

Present and not voting, 8:

Aguilar	Baker	Brashear	Burling	Chambers
Hudkins	Jones	Kremer		

Excused and not voting, 8:

Beutler	Brown	Kruse	Pedersen, Dw.	Preister
Quandahl	Robak	Vrtiska		

The appointment was confirmed with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 3. Read. Considered.

LR 3 was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 3.

ADJOURNMENT

At 9:49 a.m. on a motion by Senator Connealy, the Legislature adjourned until 9:00 a.m., Thursday, November 8, 2001.

Patrick J. O'Donnell
Clerk of the Legislature

NINTH DAY - NOVEMBER 8, 2001
LEGISLATIVE JOURNAL
NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION

NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, November 8, 2001

PRAYER

The prayer was offered by Senator Burling.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Brashear, Coordsen, Kruse, Landis, and Maxwell who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighth day was approved.

REPORTS

The following reports were received by the Legislature:

Educational Lands and Funds, Board of

July 1, 2000 through June 30, 2001 Report

Investment Finance Authority, Nebraska

Quarterly Reports 1999 Series A-1, A-2, B-1, B-2, C-1, C-2, D-1, and D-2
Community Development Loan Notes

Criminal Justice, Nebraska Commission on Law Enforcement

Amended Copies of Volumes 1 & 2 of the Homicide Study Released on
August 1, 2001

UNANIMOUS CONSENT - Member Excused

Senator Chambers asked unanimous consent to be excused until he returns.
No objections. So ordered.

BILLS ON FINAL READING**Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 1 with 37 ayes, 1 nay, 4 present and not voting, and 7 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 1. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 2001, LB 24A, section 1; Laws 2001, LB 152A, section 1; Laws 2001, LB 244A, section 1; Laws 2001, LB 313A, section 1; Laws 2001, LB 329A, section 1; Laws 2001, LB 335A, section 1; Laws 2001, LB 468A, section 2; Laws 2001, LB 542, sections 9, 34, 38, 40, 43, 44, 48, 51, and 57; Laws 2001, LB 543, sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 24, 25, 26, 29, 31, 33, 34, 37, 38, 39, 40, 44, 48, 49, 51, 53, 57, 58, 59, 68, 69, 70, 71, 72, 73, 75, 80, 81, 82, 83, 84, 95, 96, 97, 102, 103, 105, 109, 110, 113, 118, 123, 124, 125, 127, 128, 130, 131, 136, 137, 142, 143, 144, 145, 146, 147, 149, 150, 151, 154, 159, 161, 162, 163, 166, 167, 168, 169, 170, 171, 172, 177, 189, 190, 191, 192, 193, 197, 198, 199, 200, 201, 202, 203, 204, 207, 209, 210, 213, 214, 215, 216, 217, 219, 220, 221, 222, 223, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 241, 242, 244, 247, 252, 255, 258, 259, 261, 262, and 268; Laws 2001, LB 640A, sections 1, 2, 3, and 4; Laws 2001, LB 659A, section 1; Laws 2001, LB 666A, section 1; and Laws 2001, LB 772A, section 1; to define terms; to change appropriations as prescribed; to change transfers; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Aguilar	Baker	Beutler	Bourne	Bromm
Brown	Bruning	Burling	Byars	Connealy
Coordsen	Cudaback	Cunningham	Dierks	Engel
Erdman	Foley	Hartnett	Hilgert	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Kruse	McDonald	Pederson, D.	Preister	Price
Quandahl	Raikes	Redfield	Robak	Schimek
Schrock	Smith	Stuhr	Suttle	Thompson
Tyson	Vrtiska	Wehrbein	Wickersham	

Voting in the negative, 0.

Excused and not voting, 5:

Brashear Chambers Landis Maxwell Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 2. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-seventh Legislature, First Special Session, 2001; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 46:

Aguilar	Baker	Beutler	Bourne	Bromm
Brown	Bruning	Burling	Byars	Connealy
Coordsen	Cudaback	Cunningham	Dierks	Engel
Erdman	Foley	Hartnett	Hilgert	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Kruse	Landis	Maxwell	McDonald	Pederson, D.
Preister	Price	Quandahl	Raikes	Redfield
Robak	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson	Vrtiska	Wehrbein
Wickersham				

Voting in the negative, 0.

Excused and not voting, 3:

Brashear Chambers Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

Dispense With Reading at Large

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB 3 with 40 ayes, 1 nay, 5 present and not voting, and 3 excused and not voting.

The following bill was put upon final passage:

LEGISLATIVE BILL 3. With Emergency.

A BILL FOR AN ACT relating to funds; to amend section 29-2259.01, Reissue Revised Statutes of Nebraska, section 79-8,136, Revised Statutes Supplement, 2000, and sections 9-812, 71-7607, 71-7609, 76-903, 79-1010, and 79-1328, Revised Statutes Supplement, 2001; to change allocations of certain funds; to change provisions relating to incentive payments; to eliminate a tax credit and a fund; to provide operative dates; to repeal the original sections; to outright repeal sections 77-5301 to 77-5304, Revised Statutes Supplement, 2000; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Aguilar	Baker	Beutler	Bourne	Bromm
Brown	Bruning	Burling	Byars	Connealy
Coordsen	Cudaback	Cunningham	Dierks	Engel
Erdman	Foley	Hartnett	Hilgert	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Kruse	Landis	Maxwell	McDonald	Pederson, D.
Preister	Price	Quandahl	Raikes	Redfield
Robak	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson	Vrtiska	Wehrbein
Wickersham				

Voting in the negative, 0.

Excused and not voting, 3:

Brashear Chambers Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

The following bill was read and put upon final passage:

LEGISLATIVE BILL 4. With Emergency.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-27,222, Revised Statutes Supplement, 2001, and Laws 2001, LB 433, section 8; to change the operative date for a child care tax credit; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Aguilar	Baker	Beutler	Bourne	Bromm
Brown	Bruning	Burling	Byars	Connealy
Coordsen	Cudaback	Cunningham	Dierks	Engel
Erdman	Foley	Hartnett	Hilgert	Hudkins
Janssen	Jensen	Jones	Kremer	Kristensen
Kruse	Landis	Maxwell	McDonald	Pederson, D.
Preister	Price	Quandahl	Raikes	Redfield
Robak	Schimek	Schrock	Smith	Stuhr
Suttle	Thompson	Tyson	Vrtiska	Wehrbein
Wickersham				

Voting in the negative, 0.

Excused and not voting, 3:

Brashear Chambers Pedersen, Dw.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LBs 1, 2, 3, and 4.

MOTION - Notify Governor

Senator Redfield moved that a committee of five be appointed to notify the Governor that the Ninety-Seventh Legislature, First Special Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Hudkins, Suttle, Bromm, Cunningham, and Beutler to serve on said committee.

The committee returned and escorted Governor Mike Johanns to the rostrum where he delivered a message to the members.

The committee escorted the Governor from the Chamber.

MOTION - Approve Appointment

Senator Schimek moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following appointment found on page 93: State Emergency Response Commission - Dana Miller.

Voting in the affirmative, 38:

Aguilar	Bourne	Bromm	Brown	Bruning
Burling	Byars	Coordsen	Cudaback	Cunningham
Dierks	Engel	Erdman	Foley	Hartnett
Hilgert	Hudkins	Janssen	Jensen	Jones
Kristensen	Landis	Maxwell	McDonald	Pederson, D.
Preister	Price	Quandahl	Raikes	Redfield
Schimek	Schrock	Smith	Stuhr	Suttle
Tyson	Vrtiska	Wehrbein		

Voting in the negative, 0.

Present and not voting, 8:

Baker	Beutler	Connealy	Kremer	Kruse
Robak	Thompson	Wickersham		

Excused and not voting, 3:

Brashear	Chambers	Pedersen, Dw.
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The appointment was confirmed with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 4. Read. Considered.

LR 4 was adopted with 40 ayes, 0 nays, 6 present and not voting, and 3 excused and not voting.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR 4.

PRESENTED TO THE GOVERNOR

Presented to the Governor on November 8, 2001, at 9:25 a.m., were the following: LBs 1, 2, 3, and 4.

(Signed) Carol Koranda
Clerk of the Legislature's Office

EASE

The Legislature was at ease from 9:38 a.m. until 9:40 a.m.

MESSAGE FROM THE GOVERNOR

November 8, 2001

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1e, 2e, 3e, and 4e were received in my office on November 8, 2001.

These bills were signed by me on November 8, 2001, and delivered to the Secretary of State.

Sincerely,
(Signed) Mike Johanns
Governor

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of November 8, 2001, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Barta, Roy
Nebraska Livestock Markets Association

Broer, Walter L.
Associated General Contractors, Nebraska Building Chapter

Haar, Ken
Nebraska Democratic Party (Withdrawn 11/02/2001)

Hansen, John K.
Farmers Union of Nebraska

Herrin, Sally J.
Farmers Union of Nebraska

Hogrefe, Raymond H.
National Association of Retired Federal Employees, NE

Todd Jr., A. Loy
Nebraska New Car & Truck Dealers Association

EXPLANATIONS OF VOTES

Had I been present, I would have voted "aye" on final passage of LB 1.

(Signed) David M. Landis

Had I been present, I would have voted "aye" on final passage of LB 1.

(Signed) Chip Maxwell

MOTION - Approve Journal

Senator Wehrbein moved that the Journal for the Ninth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

MOTION - Adjourn Sine Die

Senator Hilgert moved that the Ninety-Seventh Legislature, First Special Session of the Nebraska Legislature, having finished all business before it, now at 9:41 a.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature

CHRONOLOGY OF BILLS

NINETY-SEVENTH LEGISLATURE FIRST SPECIAL SESSION 2001

LEGISLATIVE BILL 1. By Speaker Kristensen, at the request of the Governor

Oct. 25	Read first time	32
Oct. 25	Referred to Appropriations Committee	34
Oct. 25	Notice of hearing (10/26)	34
Oct. 26	Dierks, Jones, Tyson, Cunningham, Hudkins, Redfield, Jensen, Erdman, Quandahl, Baker, and Burling names added	44
Nov. 2	Placed on General File - Com AM9018 (printed separate)	66
Nov. 5	Com AM9018 (printed separate) adopted as amended by Raikes-Wickersham-Stuhr-Price-Coordsen AM9026. Chambers AM9030 and FA791 to Com AM9018 lost. Chambers FA792 to Com AM9018 withdrawn. Chambers motion to bracket until 11/12/2001 withdrawn. Advanced for Review	77
Nov. 5	Placed on Select File - AM7132	81
Nov. 6	E & R AM7132 p. 81 adopted. Chair sustained Beutler request for division of question on Chambers AM9031. Chambers FA795 (1st) and FA796 (2nd) adopted	85
Nov. 6	Suttle-Coordsen-Byars AM9029 to Com AM9018 lost. Advanced for Engrossment	90
Nov. 6	Correctly Engrossed	92
Nov. 8	Dispensing of reading at large approved. Final Reading w/E 44-0-5	104
Nov. 8	President signed	107
Nov. 8	Presented to Governor (11/8)	108
Nov. 8	Approved by Governor (11/8)	109
Nov. 8	Landis and Maxwell explanations of votes	110

LEGISLATIVE BILL 2. By Speaker Kristensen, at the request of the Governor

Oct. 25	Read first time	33
Oct. 25	Placed on General File	34
Nov. 2	Advanced for Review	64
Nov. 2	Placed on Select File	72
Nov. 6	Advanced for Engrossment	85
Nov. 6	Correctly Engrossed	89

Nov. 8	Final Reading w/E 46-0-3	105
Nov. 8	President signed	107
Nov. 8	Presented to Governor (11/8)	108
Nov. 8	Approved by Governor (11/8)	109

LEGISLATIVE BILL 3. By Speaker Kristensen, at the request of the Governor

Oct. 25	Read first time	33
Oct. 25	Referred to Appropriations Committee	34
Oct. 25	Notice of hearing (10/26)	35
Oct. 26	Dierks, Jones, Tyson, Cunningham, Hudkins, Redfield, Jensen, Erdman, Quandahl, Baker, and Burling names added	44
Nov. 2	Placed on General File - Com AM9019 (printed separate)	66
Nov. 5	Com AM9019 (printed separate) pending. Bourne AM9023 to Com AM9019 lost. Raikes-Wickersham-Stuhr-Price-Coordsen AM9025 to Com AM9019 pending	73
Nov. 5	Landis FA790 to Com AM9019 withdrawn. Com AM9019 (printed separate) adopted as amended by Raikes et al. pending AM9025 p. 74. Advanced for Review	76
Nov. 5	Placed on Select File - AM7133	80
Nov. 6	E & R AM7133 p. 80 adopted. Advanced for Engrossment	85
Nov. 6	Correctly Engrossed. ER9096 change	89
Nov. 8	Dispensing of reading at large approved. Final Reading w/E 46-0-3	105
Nov. 8	President signed	107
Nov. 8	Presented to Governor (11/8)	108
Nov. 8	Approved by Governor (11/8)	109

LEGISLATIVE BILL 4. By Speaker Kristensen, at the request of the Governor

Oct. 25	Read first time	33
Oct. 25	Referred to Revenue Committee	34
Oct. 26	Notice of hearing (10/29)	39
Oct. 26	Dierks, Jones, Tyson, Cunningham, Hudkins, Redfield, Jensen, Erdman, Quandahl, Baker, and Burling names added	44
Oct. 30	Placed on General File	49
Nov. 2	Advanced for Review	64
Nov. 2	Placed on Select File	72
Nov. 6	Advanced for Engrossment	85
Nov. 6	Correctly Engrossed	89

CHRONOLOGY OF BILLS

Nov. 8	Final Reading w/E 46-0-3	106
Nov. 8	President signed	107
Nov. 8	Presented to Governor (11/8)	108
Nov. 8	Approved by Governor (11/8)	109

LEGISLATIVE BILL 5. By Coordsen

Oct. 25	Read first time	33
Oct. 25	Referred to Education Committee	34
Oct. 29	Notice of hearing (10/30)	45
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 6. By Wickersham, Coordsen, D. Pederson, Wehrbein

Oct. 25	Read first time	34
Oct. 25	Referred to Revenue Committee	34
Oct. 26	Notice of hearing (10/29)	39
Nov. 2	Attorney General's Opinion #01034 to Quandahl	55
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 7. By Wickersham

Oct. 25	Read first time	34
Oct. 25	Referred to Revenue Committee	34
Oct. 26	Notice of hearing (10/29)	39
Nov. 2	Attorney General's Opinion #01034 to Quandahl	55
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 8. By Wickersham

Oct. 26	Read first time	39
Oct. 26	Referred to Health and Human Services Committee and Appropriations Committee	42
Oct. 29	Notice of hearing (10/30)	46
Nov. 2	Indefinitely postponed	64

LEGISLATIVE BILL 9. By Wickersham

Oct. 26	Read first time	40
Oct. 26	Referred to Revenue Committee	42
Oct. 26	Notice of hearing (10/29)	44
Oct. 30	Placed on General File - Com AM9008	49
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 10. By Beutler, Jensen

Oct. 26	Read first time	40
Oct. 26	Referred to Health and Human Services Committee	42

Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Placed on General File	55
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 11. By Beutler, Jensen

Oct. 26	Read first time	40
Oct. 26	Referred to Health and Human Services Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Placed on General File	55
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 12. By Kristensen

Oct. 26	Read first time	40
Oct. 26	Referred to Education Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 13. By Kristensen

Oct. 26	Read first time	40
Oct. 26	Referred to Revenue Committee	42
Oct. 26	Notice of hearing (10/29)	44
Oct. 30	Indefinitely postponed	

LEGISLATIVE BILL 14. By Raikes

Oct. 26	Read first time	41
Oct. 26	Referred to Education Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Placed on General File - Com AM9011	66
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 15. By Brashear

Oct. 26	Read first time	41
Oct. 26	Referred to Judiciary Committee	42
Oct. 29	Notice of hearing (10/30)	46
Nov. 2	Placed on General File	65
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 16. By Thompson

Oct. 26	Read first time	41
Oct. 26	Referred to Education Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Indefinitely postponed	

LEGISLATIVE BILL 17. By Raikes

Oct. 26	Read first time	41
Oct. 26	Referred to Education Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Placed on General File - Com AM9010	66
Nov. 8	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 18. By Kristensen

Oct. 26	Read first time	41
Oct. 26	Referred to Education Committee	42
Oct. 29	Notice of hearing (10/30)	45
Nov. 2	Indefinitely postponed	65

LEGISLATIVE BILL 19. By Vrtiska, Engel, Janssen, D. Pederson, Wickersham

Oct. 26	Read first time	41
Oct. 26	Referred to Appropriations Committee	42
Oct. 29	Notice of hearing (10/31)	47
Nov. 2	Attorney General's Opinion #01034 to Quandahl	55
Nov. 2	Indefinitely postponed	65

LEGISLATIVE BILL 20. By Stuhr, Baker, Bruning, Hudkins, Jensen, Kremer, Quandahl, Redfield, Robak, Smith, Suttle, Tyson

Oct. 29	Read first time	46
Oct. 29	Referred to Appropriations Committee	47
Oct. 29	Notice of hearing (10/31)	47
Oct. 29	Cunningham name added	47
Nov. 2	Indefinitely postponed	65
Nov. 2	Dw. Pedersen name added	72

**INTRODUCERS OF BILLS AND RESOLUTIONS
REFERRED TO COMMITTEE**

**NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION
2001**

TOM BAKER

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 20* Delay opening of the Tecumseh Correctional Center

CHRIS BEUTLER

LB

- 10* Change provisions relating to the Nebraska Medicaid Intergovernmental Trust Fund
- 11* Change provisions relating to the Nursing Facility Conversion Cash Fund

KERMIT A. BRASHEAR

LB

- 15 Change provisions relating to the Probation Cash Fund

JON BRUNING

LB

- 20* Delay opening of the Tecumseh Correctional Center

CARROLL BURLING

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001

GEORGE COORDSEN

LB

- 5 Change provisions for school reorganization incentive payments
- 6* Change provisions dealing with funding for credits and refunds under certain incentive provisions

DOUGLAS CUNNINGHAM

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments

INTRODUCERS OF BILLS AND RESOLUTIONS
REFERRED TO COMMITTEE

7

- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 20* Delay opening of the Tecumseh Correctional Center

MERTON L. DIERKS

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001

PAT ENGEL

LB

- 19* Change allocation of cigarette tax proceeds

PHILIP ERDMAN

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001

CAROL HUDKINS

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 20* Delay opening of the Tecumseh Correctional Center

RAY JANSSEN

LB

- 19* Change allocation of cigarette tax proceeds

JIM JENSEN

LB

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 10* Change provisions relating to the Nebraska Medicaid Intergovernmental Trust Fund
- 11* Change provisions relating to the Nursing Facility Conversion Cash Fund
- 20* Delay opening of the Tecumseh Correctional Center

JIM JONES**LB**

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001

BOB KREMER**LB**

- 20* Delay opening of the Tecumseh Correctional Center

DOUG KRISTENSEN**LB**

- 1*** Change provisions relating to appropriations for state agencies
- 2** Appropriate funds for special session expenses
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 12 Change state aid calculation
- 13 Change levy limits for schools and state aid calculation
- 18 Create the Higher Education Environmental Research and Study Fund

DWITE PEDERSEN**LB**

- 20* Delay opening of the Tecumseh Correctional Center

DON PEDERSON**LB**

- 6* Change provisions dealing with funding for credits and refunds under certain incentive provisions
- 19* Change allocation of cigarette tax proceeds

MARK QUANDAHL**LB**

- 1*** Change provisions relating to appropriations for state agencies
- 3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
- 4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
- 20* Delay opening of the Tecumseh Correctional Center

RON RAIKES

- LB**
14 Change incentive payments to reorganized school districts and unified systems
17 Change allocation of the Education Innovation Fund and eliminate quality education incentive payments

PAMELA REDFIELD

- LB**
1*** Change provisions relating to appropriations for state agencies
3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
20* Delay opening of the Tecumseh Correctional Center

JENNIE ROBAK

- LB**
20* Delay opening of the Tecumseh Correctional Center

ADRIAN SMITH

- LB**
20* Delay opening of the Tecumseh Correctional Center

ELAINE STUHR

- LB**
20* Delay opening of the Tecumseh Correctional Center

DEBORAH S. SUTTLE

- LB**
20* Delay opening of the Tecumseh Correctional Center

NANCY THOMPSON

- LB**
16 Change allocation of lottery and other funds for educational purposes

GENE TYSON

- LB**
1*** Change provisions relating to appropriations for state agencies
3*** Change allocation of certain funds and provisions relating to school reorganization incentive payments
4*** Change the operative date for the business child care tax credit enacted in LB 433, 2001
20* Delay opening of the Tecumseh Correctional Center

FLOYD VRTISKA

- LB**
19* Change allocation of cigarette tax proceeds

ROGER R. WEHRBEIN**LB**

- 6* Change provisions dealing with funding for credits and refunds under certain incentive provisions

WILLIAM R. "BOB" WICKERSHAM**LB**

- 6* Change provisions dealing with funding for credits and refunds under certain incentive provisions
- 7 Change calculations for estate taxes and generation-skipping transfer taxes
- 8 Change provisions relating to the Nebraska Health Care Cash Fund
- 9 Change distribution of the documentary stamp tax
- 19* Change allocation of cigarette tax proceeds

* With others.

** At the request of the Governor.

*** With others and at the request of the Governor.

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**NINETY-SEVENTH LEGISLATURE
FIRST SPECIAL SESSION
2001**

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Education

Chairperson - Ron Raikes

5 12 14 16 17 18

Health and Human Services

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8* 10 11

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15

Revenue

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4 6 7 9 13

*Joint Committee

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2001

The following table shows the final disposition

Length 9 days

Total Number of Bills Introduced: 20
 Total Number of Resolutions Introduced: 4
 Total Number of Bills to Become Law: 4

Approved by Governor (4):

1e	2e	3e	4e
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Indefinitely Postponed (16):

5	6	7	8	9	10
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